

IMMIGRATION AND NATURALIZATION SERVICE PERFORMANCE ISSUES

HEARING BEFORE THE SUBCOMMITTEE ON IMMIGRATION AND CLAIMS OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS FIRST SESSION

OCTOBER 17, 2001

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IMMIGRATION AND NATURALIZATION SERVICE PERFORMANCE ISSUES

WEDNESDAY, OCTOBER 17, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 10 a.m., in Room 2237, Rayburn House Office Building, Hon. George Gekas [Chairman of the Subcommittee] presiding.

Mr. GEKAS. The hour of 10 o'clock having arrived, the Committee will come to order.

Pursuant to our custom of banging the gavel at the appropriate time for each hearing or meeting set by this Committee, we have fulfilled that self-imposed obligation.

But we must await the arrival of a second Member to comply with the rules of the House as they apply to the rules of the Committees, that indeed there must be two Members present for the purpose of a hearing such as the one we are entertaining here today.

And as I have often done, I give you options in the meantime to hear Shakespearean recitations from "Othello" and from "As You Like It." Or, if you don't like it, I can murmur some tunes from "My Fair lady." [Laughter.]

You take "My Fair Lady"?

But because I have no abiding talent in either sector, I will recess until the second Member should appear.

[Recess.]

This hearing is a continuum on the process that this Committee has installed to review the current processes of the INS, some of its problems and its concerns, and to assess the present status of those past problems, and indeed to try to foresee the immediate future of the workings of that process.

One of the most alarming features of what we do and are doing in this Subcommittee—and indeed the whole country is alarmed—the report that we received on the 19 terrorists who engaged in the September 11th tragedies indicates that six of them are completely unaccounted for in any formal way or informal way available to us through the INS, through the FBI, or any other agency or local authority.

And that indicates either that individuals have been negligent along the line or there is something in the structure that is totally lacking, or else we would have had a better opportunity to track

them before September the 11th, and certainly to be able to report on them after September the 11th—how they got here, et cetera.

So even though your individual testimonies from the panel may not touch on that phenomenon, we believe that your testimony concerning the entire program of our immigration and naturalization policies will somehow touch on that, indirectly or directly.

And so we place an extra importance on your testimony.

The other factor that I wish to have the panel members recall as they're beginning to testify is that on two fronts there is a restructuring of INS in the offing.

On one front, within the Committee, the Chairman of the Judiciary Committee and I myself are going to be embarking on a proposal to be translated into legislative initiatives. And, at the same time, we expect to receive, in due course, a proposal from the commissioner of INS, which I hope will blend with the proposals that we intend to make.

Wherever you can in your testimony, perhaps you will await the question-and-answer series, we want to find out how your criticisms or comments might be improved with a restructuring or you might have some idea on how to restructure a particular element that would cure some of the problems that you determine are important for us to know.

So with that, I will ask my colleague Mr. Flake if he wishes to have an opening statement.

Mr. FLAKE. No, thank you.

Mr. GEKAS. All right, then we will proceed with introduction of our witnesses. We start with, from our right to our left, Richard M. Stana of the General Accounting Office. He is the director of justice issues at that institution. He has been there for about 25 years, and he most recently has been directing activities for his agency in drug and law enforcement and all kinds of immigration and court situations. He is a U.S. Army veteran, an MBA from Kent State University, and he is accredited at the JFK School of Government in Harvard on leadership and performance.

So we know who Mr. Stana is, and he can proceed now with his testimony.

**STATEMENT OF RICHARD M. STANA, DIRECTOR, JUSTICE
ISSUES, UNITED STATES GENERAL ACCOUNTING OFFICE**

Mr. STANA. Mr. Chairman and Members of the Subcommittee, thank you for your invitation to discuss some of the recurring management challenges facing the INS.

Mr. GEKAS. I have to interrupt just to lay some of the groundwork, which you already know. The panel members are veterans at this.

We would like to have an oral review of the written testimony. The written testimony will become a part of the record automatically, and that allows you to proceed with your review.

Mr. STANA. Okay. Thank you, Mr. Chairman.

Many of these challenges have persisted despite prior reorganizations and restructuring and continue to negatively impact INS's core missions of enforcing immigration laws and providing immigration services and benefits to eligible aliens.

In the context of the tragic events of September 11th and the increased expectations placed on our law enforcement community for homeland defense, these challenges can impact and possibly impede INS's capacity to effectively contribute to the Government-wide efforts to combat terrorism.

Over the years, GAO and others have reported on long-standing management challenges at the INS. And my prepared statement discusses many of these in greater detail. In my oral statement, I would like to focus on four main points.

First, INS has not successfully balanced the competing priorities of providing timely services to aliens with the need to ensure that only eligible aliens who apply for immigration benefits receive them. Our recent work showed that INS has leaned more toward providing service faster at the expense of ensuring the integrity of the application process.

For example, the performance appraisal processes INS uses for its H-1B visa adjudication staff—and those are the staff that evaluate the merits of the applications—places incentives on processing large numbers of applications, not on doing quality reviews of those applications. Some adjudicators also told us that their supervisors pressure them to process cases quickly, so they do not routinely refer potentially fraudulent visa benefit applications to investigators because doing so would reduce the number of applications they could complete.

We found this to be the case for adjudicators working on other INS applications. And although adjudicators thought fraud was a major problem, they received little training in fraud detection.

My second point relates to the lack of coordination and communication within and among INS's organizational components.

For example, although both the Border Patrol and INS's Office of Investigations have anti-smuggling units that conduct alien smuggling investigations, these units operate through separate chains of command with different reporting structures. We found that these units operated autonomously, resulting in a lack of program coordination. This led to different anti-smuggling units unknowingly opening investigations on the same target, thereby wasting scarce resources and placing at risk the success of these sensitive investigations.

As a second example, H-1B visa adjudicators told us they did not have easy access to case-specific information such as evidence of a fraudulent employer or a falsified worker credential that would have helped them correctly decide whether an application should be approved or denied. In some cases, a previously denied application was resubmitted and approved by a different adjudicator.

Third, effectively using information technology continues to be a challenge. At the working level, we found that the lack of adequate automation has severely hampered INS operations.

For example, INS staff cited the lack of automation capability as the number one factor affecting their ability to process benefit applications in a timely manner and reduce backlogs. INS lacks information to determine the time it takes to process an application, the size and status of pending workloads, and the existence of processing bottlenecks.

As a second example, we found that INS lacks reliable information on the number of visa overstays and little or no information on the whereabouts of temporary visa holders. Those are holders of student visas, tourist visas, and temporary worker visas who are residing in the United States.

As we have recently seen, such information would be valuable to have if INS is to quickly respond to homeland defense requirements.

Finally, fundamental program management issues have continued to cause concern. We recently found instances where basic INS program guidance differed from location to location, and sometimes among units at the same location. We also found that INS lacked a resource allocation model for its adjudications program and therefore could not specify the types of additional staff needed and where they should be deployed to best address growing backlogs.

And INS has reported that its workforce is not well supported in terms of training. Due to training cutbacks and the growing workforce, INS believes it will have a larger portion of its workforce that is relatively inexperienced and inadequately trained.

In closing, the Congress, the Administration and others have offered various options for restructuring the INS to deal with these and other management challenges. While restructuring may be desirable and could help address some of the shortfalls in INS's performance, other shortfalls in INS management may persist. To increase organizational efficiency and address other needs generated by recent terrorist activities, INS is in need of basic management building blocks, including clearly delineated roles and responsibilities, policies and procedures that effectively balance competing priorities, effective internal and external coordination and communication, and automation systems that provide accurate and timely information.

Unless these elements are established, enforcing our immigration laws, providing services to eligible aliens, and effectively contributing to the Government-wide efforts to combat terrorism will be problematic regardless of how INS is structured.

Mr. Chairman, this completes my oral statement. I would be pleased to answer any questions that you or other Members of the Subcommittee may have.

[The prepared statement of Mr. Stana follows:]

PREPARED STATEMENT OF RICHARD M. STANA

GAO	United States General Accounting Office Before the House Committee on the Judiciary, Subcommittee on Immigration and Claims, House of Representatives
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For Release on Delivery
Expected at 10:00 a.m. EDT
Wednesday, October 17, 2001

IMMIGRATION AND NATURALIZATION SERVICE

Overview of Recurring Management Challenges

Statement of Richard M. Stana, Director, Justice Issues



GAO-02-168T

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss the work that others and we have done addressing some of the recurring management challenges at the Immigration and Naturalization Service (INS). These recurring challenges relate to INS' organizational structure and chronic problems with its ability to balance competing priorities, manage communications and coordination functions, develop and field information technology critical to INS' program operations, and manage its programs. In the context of the tragic events of September 11, 2001, and the increased expectations placed on our law enforcement community for homeland defense, these challenges can impact and possibly impede INS' capacity to effectively participate in the governmentwide efforts to combat terrorism.

INS' mission involves carrying out two primary functions. One is an enforcement function that involves both preventing aliens from entering the United States illegally and removing aliens who succeed in doing so. The other function involves providing services or benefits to facilitate entry, residence, employment, and naturalization of legal immigrants.

INS' workload and challenges have increased dramatically over the past several years. For example, the number of applications filed for immigration benefits rose to over 6 million in fiscal year 2000, a nearly 50 percent increase since 1994. Additionally, INS has had to implement major legislation, such as the expedited removal provisions contained in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The problem of illegal immigration has been exacerbated by the growing sophistication of alien smuggling activity, which hampers INS efforts to deter illegal entry. Furthermore, INS is detaining a growing number of aliens, which strains the capacity of its detention facilities.

To deal with these challenges, the Congress has significantly increased INS' resources. INS' fiscal year 2001 budget of \$4.8 billion represented a 220 percent increase over its fiscal year 1993 budget. INS' workforce expanded from about 18,000 employees to about 33,000, approximately an 83 percent increase, during this same period. Funding and workforce increases are expected to continue into fiscal year 2002.

To be sure, addressing INS' challenges can be difficult. In carrying out its responsibilities, INS has to contend with issues of foreign policy, such as the United States' readiness to provide asylum to political refugees, and domestic policy, such as the tension between the need for cheap labor historically provided by immigrants and the protection of employment and working standards for U.S. citizens. Intergovernmental relations are also

affected, with federal government setting policy on immigration and state and local governments, which largely bear its costs and consequences. Nevertheless, given the substantial increases in budget and staff provided by the Congress, it is reasonable to expect that INS better address its management challenges.

In the following sections I will discuss the significant management challenges that have troubled INS for years. INS' inability to successfully address these longstanding challenges has continued to negatively impact INS' core missions of deterring and preventing illegal entry, and processing applications for immigration benefits.

Organizational Structure

In 1991, we reported that, historically, INS leadership had allowed INS' organizational structure to become decentralized without adequate controls.¹ Specifically, its regional structure had created geographical separation among INS programs and hampered resource allocation and consistent program implementation. The field structure designed to carry out INS' enforcement functions was bifurcated between districts and Border Patrol sectors, resulting in uncoordinated, overlapping programs. In addition, only a single senior INS headquarters manager supervised INS' 33 district directors and 21 Border Patrol chiefs.

In 1994, with the appointment of a new Commissioner, INS implemented an organizational structure intended to remedy at least two problems. First, the headquarters operations office's unrealistically large span of control resulting in uneven and poorly coordinated field performance. Second, the lack of focus on program planning resulting from the operations office's preoccupation with matters that should have been handled by field managers. The Commissioner shifted some management authority to officials closer to field activities.

While INS made some progress toward achieving its reorganization goals, its organizational structure is still in a state of flux and some problems persist. For example, in 1997 we reported that the responsibilities and authority of the Office of Field Operations and Office of Programs were unclear.² We recommended, among other things, that the INS Commissioner provide written guidance on (1) the responsibilities and

¹ *Immigration Management: Strong Leadership and Management Reforms Needed to Address Serious Problems* (GAO/GGD-91-28, Jan. 23, 1991).

² *INS Management: Follow-up on Selected Problems* (GAO/GGD-97-132, July 22, 1997).

authorities of these two offices and (2) the appropriate coordination and communication methods between these two offices, and between the Office of Programs and field offices. Although INS has taken some steps to implement our 1997 recommendations, they have yet to be completed because, according to INS, these recommendations relate to INS restructuring that is currently under study.

Balancing Competing Priorities

As previously mentioned, INS' mission involves carrying out two primary functions—enforcing immigration laws and providing services or benefits to eligible legal immigrants. These functions often translate into competing priorities at the program level that need to be balanced for effective program implementation. All too often, the emphasis placed on one over the other results in ineffective enforcement or poor benefit delivery.

An example of this inability to balance these priorities can be found in our September 2000 report on the processing of visas for specialty occupations, called H-1B visas.³ The performance appraisal process for staff that evaluates the merits of applications filed with INS (called adjudicators) focused mainly on the number of applications reviewed, not the quality of the review. INS rewarded those adjudicators who processed the greatest number of applications over those who processed fewer applications. Some adjudicators told us that because of pressure to adjudicate cases quickly, they did not routinely use investigations staff to look into potentially fraudulent applications because doing so would take more time and reduce the number of applications they could complete. INS investigators following up on approved applications found instances of fraud; for example, they found employers who created shell corporations and false credentials and documents for aliens ineligible for H-1B employment.

We found other examples where the goal of providing timely service delivery has negatively impacted INS' enforcement goal of providing benefits to only eligible aliens. In our May 2001 report on INS application processing, we stated that INS' policy is to grant work authorization to applicants who file for adjustment of status to that of a permanent resident before it adjudicates their application.⁴ This policy is intended to prevent

³ *H-1B Foreign Workers: Better Controls Needed to Help Employers and Protect Workers* (GAO/BEHS-00-157, Sept. 7, 2000).

⁴ *Immigration Benefits: Several Factors Impede Timeliness of Application Processing* (GAO-01-488, May 4, 2001).

aliens from having to wait for INS to adjudicate their application before they can work. However, in fiscal year 2000 INS denied about 80,000 applicants for adjustment of status (about 14 percent of all the adjustment of status applications completed) and had to revoke their work authorization. Because these aliens had work authorization while waiting for their application to be processed, they could have developed a work history that may have facilitated their obtaining employment even after INS' efforts to officially revoke their work authorization. A senior INS official stated that the policy to grant work authorization before the adjustment of status application is decided is intended to be fair to the majority of adjustment of status applicants who are approved.

An investigation into INS' initiative to process naturalization applications more quickly found the initiative to be fraught with quality and integrity problems resulting in ineligible applicants receiving citizenship. According to a Department of Justice Office of Inspector General (OIG) report on INS' Citizenship USA initiative launched in 1995, INS made the timely completion of naturalization applications its guiding principle at the expense of accuracy and quality in determining eligibility.⁵ As a result of the problems found, INS instituted naturalization quality control procedures to enhance the integrity of the process.

We are finding a similar situation in our ongoing review for this subcommittee of INS' efforts to deter immigration benefit fraud. We will discuss this and other issues related to immigration benefit fraud in a report to be released later this year.

Other researchers have also found that INS had difficulty in balancing its enforcement and service delivery priorities. For example, the Visa Waiver Program allows nationals of certain countries to enter the United States with just a passport. No visa is required. According to a Department of Justice OIG report, abuse of the program poses a threat to national security and increases illegal immigration.⁶ The report found that aliens used stolen passports from Visa Waiver countries to illegally enter the United States. In one case, the OIG found that 27 stolen Icelandic

⁵ *An Investigation of the Immigration and Naturalization Service's Citizenship USA Initiative, Special Report* (Washington, D.C.: Office of Inspector General, U.S. Department of Justice, 2000).

⁶ *The Potential for Fraud and INS' Efforts to Reduce the Risks of the Visa Waiver Pilot Program*, Report Number I-99-10 (Washington, D.C.: Office of Inspector General, U.S. Department of Justice, 1999).

passports had been used to smuggle children into the United States.⁷ Although the passport numbers of the stolen Icelandic passports had been entered into a lookout database, INS airport inspectors were not entering the passport numbers of passengers arriving with Icelandic passports into the lookout database. INS officials told the OIG investigators that manually keying in these passport numbers into the system would take too long and would hamper INS' ability to inspect all passengers from a flight within 45 minutes, as mandated by law.

An INS contractor that evaluated INS' immigration benefits process in 1999 found that INS needed to strengthen the integrity of the process.⁸ The study found that INS had no standard quality control program for ensuring that applications were processed consistently. Although some adjudicators believed the number of fraudulent applications submitted was significantly higher than the number they were detecting, they received little training in fraud detection. According to the report, some management and operations personnel indicated that performance evaluations in large part are based on the quantity of applications processed. The report concluded that whether employees receive incentives and rewards depends more on the quantity of applications processed rather than on fraud detection. Therefore, adjudicators had no incentives to actively search out fraud.

As we reported in our applications processing report, despite these pressures to complete applications more quickly, INS' backlog of applications increased to about 4 million applications by the end of fiscal year 2000, a four-fold increase since 1994. As of September 30, 2001 about 767,000 applicants out of almost 3 million with pending applications had been waiting at least 21 months for INS to process their application.

Communications and Coordination

In our 1997 management report, we found that poor communication was a problem, especially between headquarters and field units. For example, field and policy manuals were out of date and there was not one place that program staff could go for direction. Over one half of the employees we surveyed in preparing that report believed that INS had poor communications and that information was disseminated poorly. As noted earlier in our testimony, how INS' Office of Programs and Office of Field Operations were to coordinate was still unclear.

⁷ Iceland is one of the Visa Waiver countries.

⁸ *Immigration Benefits Reengineering* (PriceWaterhouseCoopers, 1999).

Our recent work shows that coordination and communication is still a problem. For example, although both the Border Patrol and INS' Office of Investigations have anti-smuggling units that conduct alien smuggling investigations, these units operate through separate chains of command with different reporting structures. In May 2000, we reported that alien smuggling was a growing problem, and that the Border Patrol and Investigations anti-smuggling units operated autonomously, resulting in a lack of program coordination.⁶ Further, this lack of coordination sometimes led to different anti-smuggling units opening investigations on the same target. INS Investigations officials told us that the autonomy of the individual units and the lack of a single chain of command to manage INS' anti-smuggling investigations were major obstacles to building a more effective anti-smuggling program.

Communicating the necessary information to the appropriate individuals has also been a problem. In our H-1B report, we stated that adjudicators told us that they did not have easy access to case-specific information that would have helped them correctly decide whether an application should be approved or denied. For example, evidence of a fraudulent employer or falsified worker credentials either was not available to the adjudicator or could only be accessed through a time-consuming and complicated process. Consequently, a previously denied application could be resubmitted and approved by a different adjudicator. At the time of our review, INS officials told us that INS was in the process of upgrading the computer system that tracks H-1B applications, which could make more accurate and up to date information available on-line for adjudicators.

Our work and the work of an INS contractor both found that INS did not have a structure in place to manage the information that adjudicators needed to make correct decisions. Information systems were not easily accessible to all adjudicators, so these systems were generally not queried as part of the adjudication process. INS had no single repository of information where adjudicators could find the most up to date information on such things as adjudication processes and legal and regulatory policies.

In one case, the lack of communication and unclear policies and procedures had tragic consequences. In January 1999, police in Texas obtained a warrant for the arrest of Rafael Resendez-Ramirez, the "railway killer" who traveled around the United States by freight train and committed murders near railroad lines. In early 1999 police contacted INS

⁶ *Alien Smuggling: Management and Operational Improvements Needed to Address Growing Problem* (GAO/GGD-00-103, May 1, 2000).

Investigations staff in Houston Texas several times about placing a "border lookout" for Resendez-Ramirez in case he was apprehended at the border. According to a Department of Justice OIG report, none of the Investigations staff contacted by the police thought to inform the police about the existence of IDENT, INS' automated fingerprint identification system.³⁰ The Investigations staff also failed to enter a lookout in IDENT in case Resendez-Ramirez was apprehended trying to cross the border. On June 1, 1999, the Border Patrol apprehended Resendez-Ramirez trying to cross illegally and had him processed through the IDENT system. Because no border lookout had been placed, however, the Border Patrol voluntarily returned him to Mexico in accordance with standard Border Patrol practices. He subsequently returned illegally to the United States and committed four more murders before he was captured.

INS' Houston investigations staff provided OIG investigators with various reasons as to why they did not mention IDENT or its lookout capability to police or enter a lookout in IDENT, including the following:

- They were unfamiliar with IDENT and how it worked.
- They never received any IDENT training.
- They were unaware IDENT had a lookout feature.
- They thought IDENT was a system primarily for the Border Patrol to use.

The OIG concluded that the lack of knowledge about IDENT was largely the result of broader problems in the way INS implemented and monitored IDENT. INS failed to (1) ensure that components outside of the Border Patrol, such as Investigations, understood IDENT policies, particularly the lookout policy and (2) provide adequate IDENT training for all INS staff. INS and the FBI are currently working on integrating IDENT with the FBI's automated fingerprint system to improve the quality and accuracy of criminal identification so that such mistakes can be averted in the future.

Effective communication has also been a problem between INS and local communities. In August 2001, we reported that since 1994 as INS' Border Patrol has increased enforcement efforts in certain locations as part of its strategy to deter illegal entry along the southwest border, illegal alien

³⁰Nearly all aliens apprehended entering illegally along the southwest border are entered into IDENT. *The Rafael Resendez-Ramirez Case: A Review of INS' Actions and the Operation of Its IDENT Automated Fingerprint Identification System* (Washington, D.C.: Office of Inspector General, U.S. Department of Justice, 2000).

traffic shifted to other locations.¹¹ Officials from some border communities told us that they were caught by surprise by the increase in the number of illegal aliens apprehended in their communities. INS has recognized the need to improve communications with the public regarding its strategy and its potential implications and has increased its outreach efforts.

Information Technology

INS has had long-standing difficulty developing and fielding information systems to support its program operations. In 1990, we reported that INS managers and field officials did not have adequate, reliable, and timely information to effectively carry out the Service's mission.¹² We also reported that INS had not conducted a comprehensive agency-wide information needs assessment. As a result, program and management data were kept in a loose collection of automated systems as well as a number of ad-hoc labor-intensive manual systems.

Effectively using information technology continues to remain a challenge for INS. In August 2000, we reported that INS did not have a "blueprint" to guide the development of its information systems.¹³ The absence of such a plan increases the risk that the information systems in which hundreds of millions of dollars are invested each year will not be well integrated or compatible and will not support mission needs. In December 2000, we reported that INS had limited capability to effectively manage its planned and ongoing information technology investments.¹⁴ While INS has some important information technology management capabilities in place, it has to do considerable work to fully implement mature and effective processes. The Department of Justice agreed with our recommendation that INS develop and submit a plan to Justice for implementing investment management process improvements. INS is in the process of developing this plan.

The lack of adequate information technology systems has significantly impacted INS' ability to perform its core missions. As we reported in our

¹¹ *INS' Southwest Border Strategy: Resource and Impact Issues Remain After Seven Years* (GAO-01-842, Aug. 2, 2001).

¹² *Information Management: Immigration and Naturalization Service Lacks Ready Access to Essential Data* (GAO/IMTEC-90-75, Sept. 27, 1990).

¹³ *Information Technology: INS Needs to Better Manage the Development of Its Enterprise Architecture* (GAO/AMD-00-212, Aug. 1, 2000).

¹⁴ *Information Technology: INS Needs to Strengthen Its Investment Management Capability* (GAO-01-146, Dec. 29, 2000).

applications processing report, INS headquarters and field staff cited automation problems as the number one factor affecting INS' ability to process applications in a timely manner to reduce backlogs. INS has no national case management system for applications filed at its 33 district offices.¹⁵ Most of these offices process applications manually. As a result, these offices cannot determine the number of pending cases, identify problem areas or bottlenecks, establish processing priorities, deploy staff based on workload, and ensure cases are processed in the order received. Due to the lack of any automated system, staff spend considerable time responding to applicants' inquiries on the status of their case, which takes time away from application processing.

Existing INS systems used to process applications do not provide accurate and reliable data. In our applications processing report we stated that the system INS Service Centers use to process some applications frequently fails to operate and does not always update data to INS' mainframe computer as it should.

This lack of automation has resulted in INS expending considerable time and effort to obtain the data it needs. In our applications processing report we also stated that lack of reliable data was the primary reason INS undertook a time-consuming and costly hand-count of all pending applications in September 2000. INS undertook the hand-count to get an accurate count of pending applications hoping to obtain an unqualified opinion on its fiscal year 2000 financial statements.¹⁶ According to INS officials, the cost to complete this hand-count was high in terms of lost production and staff time. INS suspended nearly all case processing for 2-3 weeks. Due to the lack of accurate data in its computer systems, INS will have to do another hand-count of all pending applications at the end of fiscal year 2001 if it hopes to obtain an unqualified opinion on its financial statement.

As a result of this lack of accurate data, INS has also approved more visas than the Congress has allowed. According to an INS contractor study, INS' system that tracks these visas was not designed to keep a running total of the number of visas issued and to compare it against the annual limit to

¹⁵ INS processes applications at its 33 district offices, 4 Service Centers, and 75 Application Support Centers

¹⁶ An accurate count of pending applications was needed in order to determine the amount of deferred revenue for the financial statement. Deferred revenue is revenue received for work yet to be performed.

ensure that only the allowable number is approved. Consequently, in fiscal year 1999, INS approved approximately 137,000 to 138,000 H-1B visas, well over the 115,000 limit.

Program Management

Program management issues at INS have caused continuing concern. Our work indicates that INS needs to improve its program management in several fundamental areas, including having efficient processes and clear policies and procedures, providing adequate staff training, and aligning its workforce with its workload.

The INS contractor study on immigration benefits processing found that INS' processes were inefficient. For example, INS staff spends considerable time re-entering the same data into various INS computer systems. INS did not consistently adjudicate applications because the procedures used to process applications varied by office, most field offices allowed adjudicators to review cases using minimal guidelines, and standard quality controls were lacking. The study made numerous recommendations on how to make the processes more efficient and improve quality control.

We stated in our applications processing report that INS was developing a strategic plan to reengineer applications processing. INS will make decisions regarding the contractor's recommendations after completing two related strategic plans - the plan to reengineer applications processing and the information technology strategic plan. Both are in the early planning stages. INS estimated that it will take 5 years or more to develop and implement the reengineered processes and implement a service-wide automated system to process applications.

Adequate staff training is also a critical aspect of program management. As noted earlier in our testimony, an INS contractor study found that INS adjudicators received little training in fraud detection. According to a November 2000 INS report prepared as part of INS' Government Performance and Results Act reporting requirements, the INS workforce is not well supported in terms of training. Advanced training classes have been cut back or delayed. According to the report, because of the growing workforce and these training cutbacks, INS will have a larger portion of its workforce that is relatively inexperienced and inadequately trained for its work.

Ensuring that an organization has sufficient staff stationed in the correct location is also important. As we stated in our applications processing report, INS officials believe they need more staff to keep up with the

growing applications workload. However, they could not specify the types of staff needed or where they should be located because INS lacks a staff resource allocation model. INS is waiting for the development of the reengineered applications processing procedures before it develops a staff resource allocation model.

Conclusions

The Congress, the Administration, and others have offered various options for restructuring the INS to deal with these management challenges. While restructuring may help address certain management challenges, what emerges is a picture of an organization that faces significant challenges in assembling the basic building blocks that any organization needs. These include clearly delineated roles and responsibilities, policies and procedures that effectively balance competing priorities, effective internal and external communications and coordination, and automation systems that provide accurate and timely information. Unless these elements are established, enforcing our immigration laws, providing services to eligible aliens, and effectively participating in the governmentwide efforts to combat terrorism will be problematic regardless of how INS is restructured.

Mr. Chairman, this completes my statement. I would be pleased to answer any questions that your or other members of the subcommittee may have.

Contact and Acknowledgement

For further information regarding this testimony, please contact Richard M. Stana at (202) 512-8777. Individuals making key contributions to this testimony included Evi Reznovic and Michael Dino.

Mr. GEKAS. We thank the gentleman.

We turn to his comrade at the witness table, the Honorable Glenn A. Fine.

I have been informed privately that one of the bullets of introduction does not include the fact that the Wizards never had a chance to have the services of Mr. Fine because he was drafted by the Spurs. [Laughter.]

Mr. FINE. That's correct.

Mr. GEKAS. That's outlandish.

Mr. FINE. In 1979. [Laughter.]

Mr. GEKAS. Well, we could use you now for the Wizards. [Laughter.]

Mr. FINE. I'm not sure I would be of much help anymore. [Laughter.]

Mr. GEKAS. He has been the IG at Department of Justice, the acting IG, since August 2000, confirmed as IG in December of 2000; has worked for the IG's office since January 1995. He has testified—in fact, he testified at the previous hearing, and we learned then that he was a Rhodes Scholar; that has not changed since then. [Laughter.]

And so we will proceed with the testimony of Mr. Fine, confined to 5 minutes of oral review of his written statement.

**STATEMENT OF GLENN A. FINE, INSPECTOR GENERAL, U.S.
DEPARTMENT OF JUSTICE**

Mr. FINE. Mr. Chairman, Congressman Flake, Members of the Subcommittee on Immigration and Claims, thank you for inviting me to appear before the Subcommittee again.

In my testimony today, I will discuss Office of the Inspector General reviews that relate to performance issue in the INS.

During the past 12 years, the OIG has conducted numerous audits, inspections, investigations, and special reviews of INS programs that have revealed significant problems within the INS. While the causes for the deficiencies vary, taken together, they paint a troubling picture of an agency in need of reform.

My written statement provides examples of our work in the INS that illustrates systemic problems that must be addressed by any reorganization if the INS is to effectively fulfill its critical responsibilities.

Among the agency's most significant systemic deficiencies are: management weaknesses, information systems that are unreliable, overlapping chains of command that hinder consistent enforcement of policies and procedures throughout the INS, and a lack of individual and organizational accountability.

Let me briefly elaborate on each of these points.

Management weaknesses: OIG reviews have found numerous examples of failures by INS managers to implement sufficient management controls and articulate clear policy to INS staff on issues ranging from standards for testing citizenship applicants to cash handling procedures at ports of entry.

This lack of clear and consistent management direction and control has left field managers with unclear guidance for implementing the INS's varied programs.

The INS is a complex organization that needs strong leadership to articulate and implement a clear and consistent vision for the organization. In the past, the INS has been so buffeted by one controversy after another that its management style has been crisis management.

Information technology: Last week, this Subcommittee examined in detail the INS's management of its IT systems. As I testified, numerous OIG reviews have questioned the reliability of the INS's IT systems, the accuracy of the data produced by them, and the INS's management of these systems.

Chains of command: The INS has a Byzantine management structure with overlapping functions and disconnected chains of command. In addition, we have found duplicative units, such as separate anti-smuggling units in the Border Patrol and the investigations division that report through different chains of command. These overlapping structures can also result in a significant disconnect between what INS headquarters believes is occurring in the field and what actually happens.

Accountability: OIG reviews have found that the INS has not sufficiently demanded accountability, either of individual INS employees or from the organization as a whole. From over-budgeted and under-performing computer systems to a failure to keep track of INS property, INS managers have not been held accountable for problems or, more important, for implementing effective solutions in response to our recommendations.

In addition, discipline for INS employees who have committed misconduct has been spotty and uneven.

From the OIG's perspective, the INS has received significant resources in the past few years, and we believe that the INS must hold its managers and staff more accountable for using these resources to accomplish their mission.

My written statement contains summaries of several OIG reviews, different from the reviews that I described at last week's hearing, that illustrate these general observations. Among other issues, I discuss problems with the INS's financial management systems, the INS's management of property, the collection of fees at land border ports of entry, the INS's escort of criminal aliens, INS anti-smuggling units, and travel charge card delinquencies among INS employees.

I understand that the Subcommittee plans to consider a variety of proposals to reorganize the INS, including a forthcoming proposal from Commissioner Ziglar to restructure the agency internally, a bill introduced by Congresswoman Jackson Lee to create a national immigration bureau in the Department of Justice, and other proposals that would split the INS into separate enforcement and service agencies.

Let me make a few general observations about these proposals.

First, I understand the desire to separate the INS into two agencies focusing on distinct missions of enforcement and service. The OIG and this Committee, through many hearings over the years, have highlighted numerous problems within the INS as it struggles to address its varied tasks in its present structure. Dividing the INS's responsibilities would result in smaller enforcement and service agencies, each with a clearer, more focused mission.

However, it is also important to consider whether separating the INS into two agencies might compound the deficiencies in the agency's management control systems and accountability.

A split also presents complex administrative issues because both enforcement and service functions require access to many of the same INS databases, such as the Central Index System, or IDENT, as well as documents, such as alien files. In addition, prior OIG reviews have found that many of the deficiencies we see in the INS reflect problems within the enforcement and service program areas.

Breaking the INS into two agencies could potentially exacerbate coordination problems because of the common need for information technology and infrastructure across the new agencies.

In the end, though, we believe that regardless of which restructuring plan is chosen, the systemic and underlying issues that we have identified in the INS must be addressed if any restructuring plan is to succeed. None of the plans will work if these critical problems are not solved.

This completes my oral statement, and I would be pleased to answer any questions.

[The prepared statement of Mr. Fine follows:]

PREPARED STATEMENT OF GLENN A. FINE

Mr. Chairman, Congresswoman Jackson Lee, and Members of the Subcommittee on Immigration and Claims:

I. INTRODUCTION

I appreciate the opportunity to appear before the Subcommittee on Immigration and Claims to discuss performance issues at the Immigration and Naturalization Service (INS).

The Office of the Inspector General (OIG) has conducted numerous audits, inspections, investigations, and special reviews of INS programs and personnel during the past 12 years that have revealed significant problems within the INS. While the causes for these deficiencies vary, taken together they paint a picture of an agency in need of reform. In this testimony, I plan to discuss several examples of our significant work in the INS that illustrate systemic deficiencies in the agency that must be addressed by any of the competing restructuring proposals.

Before I turn to the specific OIG reviews, however, let me offer several general observations about the INS that arise from this body of work. From the OIG's perspective, whether the INS is broken into two agencies—one focusing on enforcement and the other on service—or the agency remains intact with an internal restructuring, systemic problems need to be addressed if the INS is to effectively fulfill its critical responsibilities. In general terms, among the INS's most significant deficiencies are: (1) management weaknesses that affect program design and implementation; (2) information systems that are unreliable; (3) overlapping and unclear chains of command that hinder consistent enforcement of policies and procedures throughout the INS; and (4) a lack of individual and organizational accountability. I will briefly elaborate on each of these points before describing some of the OIG reviews that illustrate these problems.

A. Management: OIG reviews have found numerous examples of failures by INS managers to implement sufficient management controls and articulate clear policy to INS staff on issues ranging from standards for testing citizenship applicants to cash-handling procedures at ports of entry. This lack of clear and consistent management directive and control have left field managers with unclear guidance for implementing the INS's varied programs. Consequently, field managers are forced to develop procedures to implement headquarters policy, often with differing levels of success. This can lead to non-standard practices in the field that are difficult to monitor and manage on a national level.

The INS accounted for eight of the ten material weaknesses reported by the Department of Justice in its "FY 2000 Performance Report & FY 2002 Performance Plan." While two of the INS's material weaknesses were new to the report, the Department has cited other INS weaknesses, such as Detention Space and Infrastructure and Delivery Bonds, for more than ten years.

The INS is a huge and complex organization that needs strong leadership to articulate and implement a clear and consistent vision for the organization. In the past, the INS has been so buffeted by one controversy after another that crisis management has been its common management style.

B. Information Systems: Last week this Subcommittee examined in detail the INS's management of its information technology systems. As I testified, numerous OIG reviews have questioned the reliability of the INS's information technology systems and the accuracy of the data produced by them. Two OIG audits of the INS's automation initiatives found lengthy delays in completing many automation programs, unnecessary cost increases, and a significant risk that finished projects would fail to meet the agency's needs. The General Accounting Office reached similar conclusions.

C. Chains of Command: The INS has a Byzantine management structure with overlapping functions and disconnected chains of command. For example, the Border Patrol is divided into sectors that report to the Chief of the Border Patrol at INS headquarters, who reports to the Executive Associate Commissioner for Field Operations. District Directors, on the other hand, oversee geographic areas that differ from the Border Patrol sectors and report to Regional Directors, who report to the Executive Associate Commissioner for Field Operations.

District Directors oversee a myriad of functions ranging from benefits adjudication, to enforcement, to detention. Within the enforcement side of the INS, we have found duplicative units, such as separate anti-smuggling units in the Border Patrol and the Investigations Division that report through different chains of command. The Border Patrol and Investigations Division anti-smuggling units separately worked cases involving the same individuals without coordination or knowledge that this was occurring. These overlapping structures also can result in a significant disconnect between what INS Headquarters believes is occurring in the field and what actually happens.

D. Accountability: OIG reviews consistently have found that the INS has not sufficiently demanded accountability either of individual INS employees or from the organization as a whole. Many of the problems we find throughout the INS—from over-budgeted and under-performing computer systems to failure to account for the agency's property—are affected by a culture of non-accountability. Over the years, we have found that INS managers are not held accountable for problems identified by OIG reviews or, more important, for implementing effective solutions in response to our recommendations. Discipline for INS employees who have committed misconduct has been spotty and uneven. From the OIG's perspective, the INS has received significant resources in the past few years to equip and train its employees, and we believe that the INS must hold its managers and staff more accountable for using these resources to accomplish their mission.

I will now turn to brief summaries of some OIG reviews, in addition to the reviews I described last week, that illustrate these general observations.

II. EXAMPLES OF OIG WORK IN THE INS

A. Financial Statement Audit Systems

First, in addition to the problems with its information technology systems that I described in my testimony last week, the INS has struggled for years with an antiquated core financial management system and various subsystems that are not integrated into an overall system.

While the INS has improved several aspects of its financial management over the past few years, it still has substantial problems that prevent it from effectively producing and using financial information in its day-to-day operations. Moreover, because of a critical shortage of qualified financial personnel, the INS is becoming increasingly dependent on contractor support in the financial management arena. We are concerned about the INS's reliance on contractors, because this is primarily a short-term fix instead of a systemic, long-term solution to the agency's financial management problems.

The INS received an unqualified opinion for FY 2000 on its balance sheet and a qualified opinion on its statements of net cost, changes in net position, budgetary resources, and financing. The qualification resulted because the INS did not know how many applications for immigration benefits it had waiting to be processed. Consequently, the INS could not determine what portion of fees collected was earned or unearned.

The INS had three material weaknesses and three reportable conditions in this most recent financial statement audit. The three material weaknesses were in the areas of deferred revenue (the issue that caused the qualification), financial man-

agement systems controls, and general controls on automated data processing systems.

The INS's FY 2000 audit opinion did represent an improvement over FY 1999 when the INS received a qualified opinion on all its financial statements because of inadequate records supporting both the number of pending applications and intra-governmental accounts payable. However, the INS had to expend a tremendous amount of personnel and money in a year-end effort to obtain this opinion. The most telling example of its lack of reliable, automated data was the comprehensive physical inventory conducted by the INS of its pending applications, which involved several preliminary test counts and a final year-end count of approximately two million applications. Production was shut down at several INS sites for more than a week while employees and contractors counted applications. The INS will need to continue performing these year-end manual counts until it can successfully implement an automated system that accurately tracks financial information on a regular basis, rather than rely on Herculean efforts at the end of the fiscal year to produce unqualified opinions.

B. Management of Property

A recent OIG audit of the INS's property management assessed the agency's controls for ensuring that its property is safeguarded against waste, loss, unauthorized use, and misappropriation. The INS's property inventory includes vehicles, computer equipment, communications equipment, firearms, and aircraft valued at more than \$640 million.

We found that the INS: (1) could not account for approximately 61,000 items that cost \$68.9 million (to be conservative, we stated our statistical projections at the lower bound; however, the upper bound could be as high as 81,700 property items with a total cost of \$107.6 million); (2) failed to perform and document physical inventories; and (3) did not record the acquisition of all property in its automated database. The INS's internal audit program, INSpect, has consistently identified these and other related property accountability issues. Yet, the issues continue to exist because of an apparent lack of management resolve to correct deficiencies and to hold employees accountable.

In addition, the OIG found that the INS did not implement adequate controls over computer equipment that had data storage capabilities. Consequently, this property was vulnerable to loss or theft and, as a result, sensitive data stored in the machines could be compromised.

We also found troubling results when we analyzed the status of 539 weapons that had been identified by the INS as being lost, missing, or stolen. Specifically, INS staff did not routinely report the status of these weapons through proper channels and, as a result, did not initiate timely follow-up action to resolve each instance of an unaccounted-for weapon. We identified at least six instances in which INS weapons were linked to the commission of a crime and were subsequently recovered by local law enforcement agencies.

C. INS Collection of Fees at Land Border Ports of Entry

INS employees at the land border ports of entry collect fees for processing applications to replace alien registration cards, for waiver of passports and visas, and for nonimmigrant records of arrivals and departures. During an audit of cash-handling procedures at ports of entry along the southwest border, we identified serious control weaknesses in the INS's fee collection program. We found that cashiers could easily steal money before it is recorded in the cash register and conceal the loss by either failing to ring up the transaction or voiding the transaction after it had been rung up. Further, ports of entry staff responsible for handling fee monies was not held accountable for cash shortages, and managers could not account for many of the cash register tapes that documented thousands of transactions. As a result, these procedures left little or no audit trail and created an environment highly vulnerable to loss or theft.

We initiated this audit because two separate OIG investigations into the theft of fee monies at land ports of entry had identified significant discrepancies in the management controls over fee collections. We were concerned whether these discrepancies were indicative of more widespread internal control problems at land ports of entry. Generally, our audit confirmed that the controls and procedures in place allowed opportunities for loss or theft of fee monies without detection at each step in the fee collection process. Consequently, INS managers could not determine the total amount of fees that should have been collected based on the applications processed.

We concluded that the INS had no assurance that substantial losses have not occurred due to a lack of reconciliations between cash collected, cash register tapes,

and applications adjudicated. In addition, we found that management oversight throughout the collection and deposit process was inadequate. In contrast to these overall results, we found that one INS manager, the Port Director at Laredo, Texas, had taken action as a result of a 1997 theft of fees at his port and consulted with local banks about how to improve cash-handling controls. Furthermore, he instituted procedures whereby cashiers personally would be held accountable for shortages due to errors or intentional subversions. However, managers at five other ports of entry in our review had not taken any such actions at the time of our audit.

We found that most of these conditions were previously identified in a 1995 OIG audit report on cash collections at ports of entry and had not been corrected. In response to recommendations in the 1995 report relating to improving internal controls, the INS Executive Associate Commissioner for Field Operations had assured the OIG that District Directors would be held responsible for maintaining adequate internal controls at the ports of entry. Despite this assurance, we found that these recommendations largely had not been implemented. Our recent review implicated both poor management controls and a lack of accountability for rectifying previously identified deficiencies.

D. Escort of Criminal Aliens

The OIG reviewed the INS's practice of escorting criminal aliens on commercial airlines when the aliens are removed from the United States to non-border countries. In FY 1999 and FY 2000, the INS removed 139,000 criminal aliens of which the most dangerous segment totaled 30,000 aliens who had been involved in homicide, kidnapping, sexual offenses, robbery, assault, arson, extortion, and weapon offenses. Of the approximately 9,000 serious offenders from non-border countries, we estimated that 80 percent were removed by commercial airlines. Our review focused on this latter group of aliens.

We found that the INS was placing the traveling public at potential risk because it did not consistently follow its own escort policy. In three of the four districts we visited, INS supervisory field officials clearly disregarded provisions of the INS escort standard, resulting in the removal of violent aliens on commercial airlines without escorts or with less than the required number of escorts. In addition, the INS did not identify some dangerous aliens during the routine pre-removal alien file review process. Further, the INS escort standard failed to require escorts for certain types of aliens who may pose a danger to the public. Additionally, we found that the INS did not adequately coordinate the escort process with the Department of State. When we questioned INS field managers about the deficiencies, we received explanations such as lack of personnel resources, the need to save money, officer safety issues at destination countries, and lack of familiarity with the INS's escort policy. One of the most troubling responses was that full adherence to the escort policy was "not required." This response illustrates that the INS often does not provide the field with explicit implementing instructions and does not provide sufficient management oversight to ensure that its policies are implemented.

E. INS Airport Inspection Facilities

Concerned about the overall adequacy of inspection facilities at airports, the INS asked the OIG to review the adequacy of its inspection facilities at selected international airports. In 1998, the INS processed 39.7 million alien passengers through inspection facilities at about 150 airports. Together with other federal agencies, the INS approves the design of inspection facilities provided by individual airlines and airport authorities to prevent smuggling and illegal entry. The INS also designates which airports may receive international passengers and may withdraw such designations if suitable landing stations are not provided in accordance with the Immigration and Nationality Act of 1952 (Act). We performed on-site reviews at 12 of the country's busiest international airports and surveyed INS staff about the conditions at 30 additional airports. These 42 airports accounted for 75 percent of international passengers processed through inspection facilities in FY 1998.

We found deficiencies at all 42 airports. Three airports—John F. Kennedy in New York City, Los Angeles, and Miami—handled the largest number of passengers, and their inspection facilities needed some of the most extensive modifications. We found that many inspection facilities were badly designed and had faulty monitoring, surveillance, and communication systems. Hold rooms used to confine potentially inadmissible aliens were too small and did not permit separate confinement of male, female, and juvenile detainees. Thirteen airports had no hold rooms. As a result, the airports were vulnerable to illegal entry, escapes, injuries, health hazards, and the hiding or disposing of contraband or documents.

We concluded that these conditions existed mainly because the INS dealt ineffectively with airlines and airport authorities. By failing to enforce provisions of the

Act, the INS undermined its ability to influence airlines and airport authorities to meet federal standards. We recommended that the INS reinforce airlines' and airport authorities' understanding of design and construction standards and apply sanctions permitted by the Act, where appropriate, at airports not providing suitable facilities. We concluded that the INS must hold the airlines accountable for inadequate inspection facilities in order to minimize the airport's vulnerabilities to illegal entry, escapes, injuries, health hazards, and the hiding or disposing of contraband or documents.

F. Citizenship U.S.A.

On August 31, 1995, the INS launched Citizenship U.S.A. (CUSA), a program designed to substantially reduce the backlog of pending naturalization applications in FY 1996. More than one million individuals were naturalized during the year the program was in operation.

By early summer 1996, allegations were raised about the integrity of the INS's naturalization processing, including allegations that applicants with disqualifying backgrounds had been naturalized. At the request of Congress and the Attorney General, the OIG investigated CUSA to determine whether the integrity of the naturalization process had been compromised and, if so, the reasons for the failures.

The OIG review found that the INS had compromised the integrity of naturalization adjudications as a result of its efforts to process applicants more quickly and meet a self-imposed goal of completing more than a million cases by the end of FY 1996. We found that the INS did not address known processing weaknesses before implementing a major program that would place significant new burdens on the system. Problems INS managers had identified before the CUSA program began included inconsistent application of adjudication criteria, such as good moral character and English language standards, widespread use of temporary files that necessarily meant that adjudicators were not reviewing an applicant's immigration history before making a determination about naturalization, and inadequate procedures for checking criminal histories and fingerprints. The OIG's comprehensive report detailed a series of critical management deficiencies at INS headquarters and INS field offices regarding the implementation of this program.

G. Anti-Smuggling Units

The detection, disruption, and dismantling of alien smuggling organizations are enforcement priorities for the INS. The INS's anti-smuggling strategy involves multiple components—international enforcement, border enforcement, and interior enforcement—and its Anti-Smuggling Units (ASUs) are an integral part of this strategy. Situated in approximately 35 sites throughout the continental United States, Hawaii, and Puerto Rico, ASUs are located in Border Patrol operations as well as INS district office Investigations Divisions.

We examined ASUs to provide INS headquarters managers with a field perspective of how to improve their anti-smuggling program. To obtain that information, we surveyed all ASU supervisors and visited five ASUs, assessing issues such as the clarity of ASUs' mission and the level of coordination between ASUs and other INS entities.

Our survey found that ASUs believed that INS headquarters had not provided sufficient direction regarding the anti-smuggling strategy. Moreover, the location of ASUs both in INS district offices and in Border Patrol sectors requires ASUs to report to INS Headquarters through two separate chains of command. We found that coordination issues arise among ASUs, including when two ASUs unknowingly were working on the same case. In one example, the duplication of effort was discovered when two ASUs each submitted requests for approval of undercover investigations of the same smuggling operation. We recommended that the INS determine whether a single chain of command for the anti-smuggling program would be more effective and efficient than the current structure in which ASUs are located in both INS district offices and Border Patrol sectors.

H. Other OIG Reviews

Examples of other OIG reviews in the INS relevant to the topic of this hearing include:

- **Travel Charge Card Delinquencies:** The Department provides its employees with travel charge cards to use for official government travel and expects them to pay any charges incurred. While examining issues related to procurement cards, we learned that Department employees were accruing significant travel charge card debts and not repaying it. We determined that unpaid debt over a 2-year period (November 1998 to December 2000) amounted to \$1.2 million. INS employees accounted for most of this unpaid debt: nearly

\$825,000, or 69 percent, of the Department's total debt. We therefore conducted a separate review of the INS's handling of its travel charge card program.

The high delinquency rates of INS employees indicated that significant improvements were needed in the INS's administration of its travel charge card program. We recommended improvements in the following areas: (1) greater management support for and oversight of the travel charge card program; (2) more timely identification by the program coordinators of delinquencies and misuse and referral to cardholder supervisors, management, and investigative units for resolution; (3) stronger actions by management against those who misuse their credit cards or neglect to pay their bills; (4) stronger controls over access to travel cards and use of automated teller machines when a cardholder is not in travel status, and (5) better education of managers, supervisors, coordinators, and cardholders on their roles and responsibilities. It is axiomatic that the INS—like every other Department component—needs to hold its employees accountable to pay their expenses in a timely matter.

- **Secure Electronic Network for Travelers' Rapid Inspection:** In FY 1995, the INS and the U.S. Customs Service (Customs) jointly developed the Secure Electronic Network for Travelers' Rapid Inspection (SENTRI) pilot project. Using the latest electronic and computer technology, SENTRI is intended to expedite the primary inspection process at land ports of entry for low-risk, prescreened border crossers in noncommercial vehicles without compromising border integrity. The OIG review assessed whether SENTRI has met its mission, considered SENTRI's impact on both commuter wait times and border integrity in the general inspection lanes, and examined SENTRI's current challenges.

Overall, we found that SENTRI had led to lower commuter wait times for those using the SENTRI lane. In addition, no major border violations by SENTRI users had been reported at these sites. However, our review identifies funding shortfalls and a lack of long-range planning regarding SENTRI. We found that the lack of planning has left critical issues unresolved, including whether SENTRI's sites along the southwest and northern borders would be integrated and whether the INS and Customs will establish SENTRI as a permanent program. We also found that the INS needed to develop a more comprehensive framework for objectively evaluating and selecting future SENTRI sites.

III. CONCLUDING OBSERVATIONS

I understand that the Subcommittee plans to consider a variety of proposals to reorganize the INS, including a forthcoming proposal from Commissioner Ziglar to restructure the agency internally, H.R. 2680 introduced by Congresswoman Jackson Lee to create a National Immigration Bureau in the Department, and other proposals that would split the INS into separate enforcement and service agencies.

Let me make a few general observations about these proposals. First, I understand the reason behind the desire to separate the INS into two agencies focusing on distinct missions of enforcement and service. The OIG and this Committee through many hearings over the years have highlighted numerous problems within the INS as it struggled to address its varied tasks in its present unitary structure. Dividing the INS's responsibilities between two separate agencies would result in smaller enforcement and service agencies, each with a clearer, more focused mission.

However, separating the INS into two agencies might merely compound the deficiencies in the agency's management controls, systems, and accountability. A split also presents complex administrative issues such as the need to share information technology systems. Both enforcement and service agencies require access to many of the same INS databases, such as the Central Index System (CIS) and IDENT, and documents, such as A-files, and both interact and depend upon INS detention operations. In addition, prior OIG reviews have found that many of the problems we see in the INS reflect problems within the enforcement and service program areas. Breaking the INS into two agencies could potentially exacerbate coordination problems because of the common need for information technology and infrastructure resources across the new agencies.

In the end, the OIG believes that regardless of which restructuring plan is chosen, the systemic and underlying issues that we have identified in the INS—such as management failures, poor information technology systems, lack of individual and organizational accountability, and clear chains of command—must be addressed be-

fore any restructuring plan can succeed. None of the plans will work if these critical problems are not solved.

This completes my prepared statement. I would be pleased to answer any questions.

Mr. GEKAS. We thank the gentleman.

We note the presence now of the gentleman from California, Mr. Issa.

And we turn to our next witness, who is also well known in congressional circles, Elizabeth Stern, attorney at law at Shaw Pittman, head of the Shaw Pittman business immigration group. The lady is a member of the American Immigration Lawyers Association, the International Institute for Human Resources, the Washington International Trade Association, and the Immigration Policy Committee of Information Technology Association of America.

She received her BS from the University of Virginia in 1983 and JD from the University of Virginia Law School in 1986.

You may proceed, with the same ground rules.

STATEMENT OF ELIZABETH ESPIN STERN, MANAGING PARTNER, BUSINESS IMMIGRATION PRACTICE, SHAW PITTMAN LLP

Ms. STERN. Mr. Chairman and Members of the Committee, thank you for the opportunity to testify on this important, critical issue this morning.

The INS is faced with a burgeoning caseload, with backlogs and inefficiencies growing daily at an unprecedented pace. We need a comprehensive overhaul of the adjudication process, one that is designed to manage volume and ensure consistency of legal standards.

Despite the efforts of INS policymakers in the past several years, the inefficiency of the current system has already penalized legitimate users of the immigration laws.

Ironically, as we have seen since September 11th, it has also created the potential for abuse by those who are not legitimate, who can capitalize on the weaknesses at the agency to enter and remain in the country inappropriately.

Absent a fully functional, competent INS, the dual mission of the agency—security and service—will be compromised.

In my written statement, I provide a more comprehensive assessment of what the problem areas are and some of the solutions to those problems. In my oral statement, I would like to identify four key areas.

Number one, a system of clear accountability and authority must be established at the INS for purpose of the adjudication process. To accomplish the processing of cases in the volumes that we are seeing, with a complex and constantly changing legal landscape, the service and enforcement arms of the agency do need to be separated, with clear chains of command and clearly defined goal-oriented roles and responsibilities for each aspect, including distinctly for the service aspect.

Field office roles similarly need to be clearly defined, with cases that involve the most complex legal standards going to those with the most specialized knowledge. We would recommend that the service centers take on the cases that have the most challenging

legal standards, such as nonimmigrant visa petitions and employment-based residency petitions, whereas the district offices that traditionally have focused on applications with significant biographical and personal backgrounds, focus more on family-based petitions and perhaps even naturalization cases, which they handled in the past.

Second, the INS must be able to manage competing priorities. Everyone is familiar with the mission overload problem at the INS, and that is one of the reasons that the Subcommittee is holding this hearing. In order to combat that problem, the agency needs to implement management techniques at each level of INS service—headquarters, field offices, and within product lines at the various field offices.

Backlogs need to be controlled with efficient and effective processing, with the backlog control being a goal across visa categories, not for only single-problem areas at any given time.

At the current time, we have seen the nonimmigrant visa processing stall to as much as 4 to 6 months, where it has traditionally been 4 to 6 weeks. It's time to get that back on track to the 30-day timeline that Congress itself has advocated.

Similarly, immigrant visa processing is taking several years. We need to reduce those timelines to a 180-day period.

Third, the INS needs to strengthen its communication infrastructure. It needs a state-of-the-art technology, including Web-enabled integrated databases that track milestone achievements in individual filings that can be accessed by both the security and the service sides of various field offices.

Fourth, there is a need for enhanced professionalism and access to information for the user community. The burdens of the growing caseload, absent a systemic management improvement, has led the staff of INS to feel overtaxed, overburdened, and, perhaps, as one of my colleagues, overly focused simply on trying to get through paper and not on providing consistency of legal standards. More streamlined systems are an absolute must. And training for the service, in terms of what the legal standards are, has to be enhanced.

A real-world example that we saw recently, and that I include in my written presentation of the problems that this leads to in the user community, is the example of a company that hired a master's degree graduate, foreign national, to lead a team on a major project, information technology project, for a State agency, providing the lead time of over 60 days for the INS to adjudicate the petition, which was an H-1B petition. The INS took a total of 6 months to adjudicate the petition, despite very aggressive efforts to attempt to coordinate a solution where they could conclude the processing more quickly.

It took 6 months. The project was compromised. The reputation of the company vis-a-vis the client State agency was impaired. And there was a significant dollar loss, because of having to replace that manager without anyone available with the skill set that he had.

Before September 11th, we viewed INS reform as essential to meet the real-world needs of American businesses and inter-

national families. After September 11th, we see it as even more critical.

An agency buried in paper and outdated processes—no matter how talented any individual manager or adjudicator—will be unable to eliminate backlogs, achieve consistency of legal standards, or identify security risks. We need to create the process re-engineering that will allow the agency to see clearly, to operate properly, and to achieve the correct results in every case.

Thank you.

[The prepared statement of Ms. Stern follows:]

PREPARED STATEMENT OF ELIZABETH ESPIN STERN

Mr. Chairman, I thank you for inviting me to speak before the Committee today on the issue of immigration reform and the need to reform the Immigration and Naturalization Service (INS). As the managing partner of the business immigration group at Shaw Pittman LLP, I represent a number of large businesses in a variety of industry sectors, including in particular the communications and information technology arena. In spite of efforts by INS decision makers at both the agency's headquarters and its field offices, we have seen a significant increase in the number of case backlogs at the INS, and have witnessed a surge of inefficiency at the agency over the past several years. As the number of visa applications filed with the INS continues to grow, the need to reform the current structure of the agency becomes increasingly apparent.

The traditional mission of the INS has been to enforce the U.S. immigration laws. The management of those laws has two principal components: enforcement (to deter illegal immigration), and service (to facilitate legal immigration). In order to meet the needs of the business and family communities, the service component requires a comprehensive overhaul.

This presentation outlines the key elements of the challenges to service that our clients in the business community have faced in recent years, and includes recommendations in five key areas for improvement of the service component.

INS Backlogs are Significantly Impacting the Business Community.

The U.S. business community, in particular the sectors involved in scientific or technical services, has grown dramatically in the past 10 years. Even with the recent softening of the economy, key sectors such as information technology (IT) continue to expand and develop innovations. To address the ongoing demand for U.S. products and services, U.S. businesses have engaged in aggressive recruitment programs, focusing on U.S.-based college recruitment and open market hiring. They have also expanded training programs, in particular for technical fields. We see our established IT clients dedicating two to six percent of their revenues to training programs.

The recruitment efforts of these companies have yielded a diverse work force, including both U.S. and foreign workers. The foreign professionals these companies recruit typically have expertise in specialty areas that fill critical skill gaps and project needs. The principal problem U.S. employers face when attempting to hire these workers is the processing of their visa petitions.

Delays in INS processing of nonimmigrant and immigrant applications and petitions have reached unprecedented highs in the past year. At one point in the past year, for example, H-1B petition adjudication, historically completed in four to six weeks, stalled to over four months. In addition, the adjudication of routine visa petitions increasingly includes INS requests for additional evidence that are redundant or inappropriate (e.g., request for pay stubs to prove ongoing employment in cases where the same employer is the petitioner and attests in the petition to that ongoing employment). Although the agency is attempting to produce a higher volume of cases, the constantly growing case load, when combined with systemic inefficiencies, has led to consistent problems in routine visa processing.

Some real-world examples of common problems U.S. employers have faced recently are:

1. *F-1 to H-1B/Gap in Work Authorization due to INS Delays:* A foreign worker with a master's degree in management information systems joined Company X in August 2000 on an F-1 practical training visa. The worker's visa was due to expire in December 2000. In response to client needs, the company placed the worker on a multi-million dollar project to develop a web-enabled

automated financial management system for a state agency, as a Team Leader. The company filed for conversion of the worker's visa status from F-1 to H-1B status in October 2000, allowing 60 days for the INS to approve the petition (60 days is the response time INS cited as the norm for H-1B adjudication at the time). INS delays resulted in the case being stalled until April 2001. The delay forced the company to place the Team Leader on leave for several months, interrupting a vital project on which that worker had critical know-how, and creating a serious client relations issue with the state agency. In response to the employer's inquiries about the case, the INS stated that the volume it faced prevented it from accelerating processing of any case, even when, as here, the case processing lagged behind the normal 60-day adjudication period.

2. *L-1 to H-1B/Lateral Start Dates Delayed for Months:* A rapidly-growing telecommunications provider recruited a senior executive from the U.S. office of a multinational competitor. The executive held an L-1 visa, and so needed a new H-1B visa to be approved with the new employer before he could begin work. The company filed his petition with the INS in March 2000, expecting that the INS would adjudicate the case within the 60-day period that the agency continued to cite as normal for processing of H-1B petitions. Soon afterward, the company announced that the executive would join its operations in May 2000. The INS failed to conclude processing of the petition until July 2000, however, a total adjudication period of 120 days. Thus the company was faced with an unexpected delay of two additional months, creating the risk of a stock price decline as well as operational challenges. Neither Congressional representatives nor the INS Regional Service Center Liaison were able to facilitate a more expedited processing.
3. *Residency:* A large IT company sponsored the Director of its Global Customer Support Center for permanent residency (at the time, the Director held an H-1B visa). The Department of Labor certified the labor certification application within a few months. INS took four years to adjudicate the immigrant petition and adjustment of status application. While the Director was able to continue working on his H-1B work permit and, later, the adjustment-authorized Employment Authorization Document (EAD), it was only due to a significant and costly effort involving assistance by multiple Congressional offices and a variety of personnel at INS headquarters that the EAD was issued in time to avoid a gap in work authorization. Although legislation passed last year by Congress would now help to insure that a gap in work authorization does not occur, the length of the processing in this example reflects how oppressive the lead time in concluding the process for U.S. residency has become.

As the above examples illustrate, the backlogs and significant processing delays at the INS have real-world effects on the foreign work force of U.S. companies and may severely impact the business community. Clear problems exist at the INS that must be addressed in order to provide for a streamlined system, and allow for a smoother, more timely adjudication of visas processed by the INS. The enhanced efficiency will benefit both the business and family communities.

A System of Clear Accountability Must Be Established at the INS.

Under the current structure, there is a lack of accountability for employee actions at the INS. As no clear chain of command has been established between policy makers at INS headquarters and INS employees at field offices, INS employees are left with little guidance on policy implementation. Periodically, INS headquarters will issue field guidance regarding standards for adjudication or clarification of newly passed statutes. However, the field offices often develop divergent policies, which results in differing standards throughout the agency. The field offices often fail to implement a uniform policy regarding "Requests for Evidence" in standard cases, and lack uniform target timetables for concluding adjudication of petitions.

Making the situation worse is an artificial "deer in the headlights" sentiment held by field office staff, who have commented that they are afraid to contravene the policies that INS headquarters advocates. In reality, they do not seem to have a clear sense of what the central office mandates are. This confusion results in increased delays and greater backlogs throughout the agency.

The INS Must Be Able to Manage Competing Priorities.

In recent years, the focus of INS has been to select one priority at a time—e.g., naturalization cases in 1999, adjustment of status cases in 2001. The agency will then devote significant resources to that single priority, leaving other areas insuffi-

ciently staffed or ineffectively managed. As a result, other areas, although equally critical to the business and family communities, have been neglected, and backlogs have exploded in those neglected areas.

This approach of shifting priorities has led to unprecedented backlogs in areas that traditionally were always current, such as nonimmigrant work visas. The agency has shuffled staff at various times as it "chased" the most dramatic backlogs. Although clearly attempting to identify solutions to the increasingly overwhelming case load, the agency has in fact ended up providing "band-aid fixes" to single areas rather than devising an overall management plan to keep all adjudication areas consistently moving.

The INS Must Strengthen its Intra-Agency Communication.

Related to the lack of a clear chain of command and accountability is the unreliability of the communication systems between agency offices. In part, this problem is a result of the structural deficiency and the failure of the INS to delineate clear roles and responsibilities between headquarters and the various Service Centers and District Offices. The communication breakdown is also due to INS reliance on an outdated communication system, where various databases are not integrated and hard file transfers must still be made (by mail) in order to facilitate processing. There is no question that these communication deficiencies contribute to delays in processing, and create frustration among the ranks of the work force at INS.

The Inconsistent Application of Legal Standards Cannot Continue.

The priority shifting described above has led to a lack of close attention to routine visa categories, in particular the nonimmigrant work visa classifications. Accordingly, INS field offices have taken greater latitude in implementing the regulations, which have not been updated promptly to accommodate changes in statutes (e.g., the regulations corresponding to the American Competitiveness in the 21st Century Act, AC 21, have yet to be published). While limited field guidance is issued periodically, the field offices typically develop their own approach to implementation. The result is an inconsistent application of key legal standards, and an invitation for users to forum shop. For example, at various times, specific Service Centers have been reluctant to accept academic equivalency evaluations from reputable credentials agencies, while others have been comfortable with them. The clearest guidance from INS headquarters on the propriety of such evaluations dates back to 1995.

There is a Need for Enhanced Professionalism and Access to Information.

The burden of the large volume has demotivated the agency staff, which considers itself largely "max'd out." The consistent backlogs are accepted as a fact of life at the field offices, where managers and staff focus on how many cases are acted upon, not how many are left in the pipeline. As a result, the attitude of many field office managers is unreceptive. Even when a field office manager is willing to assist, the lack of a system for managing the volume makes it difficult to obtain a timely solution or conclusion of the processing.

Similarly, except in the new program for Premium Processing, where the customer must pay an additional \$1,000 fee to assure a timely processing (15 days is the guideline) of certain types of nonimmigrant cases, there is no effective system for customers to check on the status of their cases. Status checks must still be conducted by telephone for Service Center petitions, via a strained phone system that requires dozens of attempts simply to reach a recorded message. Status checks for District Office applications typically require the customer to appear in person.

INS headquarters, which could provide a central clearinghouse for user problems, does not have a reliable vehicle to communicate with field offices when a case is being mishandled or an emergent case requires special handling. The liaison offices at INS headquarters are often ill-equipped to press for solutions to emergent cases that require special handling. Even basic communication of requests can be stalled while customers press to reach one of the headquarter officers, as voice mail boxes of the requisite personnel are frequently full.

SOLUTIONS—FIRST STEPS

The Service and Enforcement Arms of the Agency Must Be Separated.

There is a fairly widespread consensus that INS's service functions (family- and employment-based immigrant petitions, nonimmigrant visa changes of status and extensions of stay, naturalization applications, refugee and asylum applications, and service center operations) should be split from enforcement (border patrol, investigations, detention and deportation, and intelligence). Inspections, which involves as-

pects of both service and enforcement, requires special consideration, and may be most suited to being staffed in part by officers from both arenas.

A split would allow clearer lines of authority to be established in each arena, with budgetary allocations more clearly segregated. The focus of the service arm of the INS must continue to be centered on the facilitation of the entry of valuable foreign nationals who will serve as an asset to our nation. In contrast, the enforcement side of the INS must monitor border control and handle investigations, removal and deportation of foreign nationals in violation of the law. A split of the two functions would serve to create a shift in the attitude of the agency bureau that would administer the cases of the business and family communities.

As the service and enforcement functions of the INS are based on two very different goals, the creation of two separate bureaus, each reporting to the Justice Department, would allow defined-goal enterprise development to occur. The lines of authority would be unambiguous, and the bureau dedicated to the service function would then be able to develop a modernized communication infrastructure and records management system to facilitate service.

Other Structural Changes Would Enhance Overall Service.

Allocation of responsibility within field offices should be reconsidered, with an eye to enhancing service and efficiency. Service Centers (SCs), traditionally the agency's "jewel in the crown," should not be overloaded. A limitation of SC responsibilities to nonimmigrant applications and employment-based immigrant cases may be optimal.

District Offices, which now handle all family-based one-step cases, should handle all family-based petitions and adjustment of status applications. Naturalization could be returned to District Offices with a closer monitoring of this program, to eliminate the continuous delays and avoid a repeat of the slow-downs which resulted from the Citizenship America initiative. (Prior to that time, naturalization typically moved within six to eight months at the District Offices.) Refugee, asylum and current special program cases (TPS, NACARA, etc.) can remain at District Offices.

Any new special program legislation should include an assessment of the person hours and resources required to process those cases, and allow the District Offices or INS headquarters to establish Application Support Centers to process those cases, typically for the limited window of time allowed for the programs' applications to be made.

Management Techniques Need to be Implemented at Each Level of the INS Service Arm.

Requisite top-down management techniques need to be made part of the INS service arm. Managers must establish firm lines of authority and communication, with clear allocation of roles and responsibility at each level of staff. Managers must have frequent periodic meetings with their staff, to discuss improvements, enhancements and refinements, and to determine what is working and what is not.

Changes in policy must be clearly communicated throughout the organization, from headquarters to field offices, and, in turn, from field office managers to staff. Consistency in adjudication must be made the norm, with clear targets in timelines for processing and required reporting to headquarters when backlogs exceed that timeline/deadline, so that resources may be allocated to curtail the backlog before it becomes unmanageable. Field offices must be graded not only on the volume of cases acted upon, but on the pipeline of backlogged cases.

Consistent Timelines Must Be Implemented.

As mandated in AC 21, INS headquarters must impose a timeline of 30 days on all nonimmigrant applications, and 180 days in all immigrant petitions and applications. In nonimmigrant cases, requests for evidence (RFEs), when necessary, should be required to be issued within 15 days of receipt of the case, with adjudication concluding within 15 days of receipt of the response, thus insuring that RFEs do not slow down the overall adjudication process. Similarly, prompt timelines should be established in immigrant RFE contexts.

Naturalization applications should be held to a similar timetable, most likely 90 days from filing to the examination interview, with an additional 30 days to the swearing-in ceremony. Timelines must be enforced across field offices, to lead to a consistency in processing.

The INS Needs A Modernized Infrastructure for Communication.

INS databases must be upgraded to web-enabled systems with access across offices in order to allow for greater efficiency in communication. Better intra-agency

communication will result in clearer lines of decision-making and an overall decrease in processing times.

Individual file data progress and tracking needs to be maintained on a comprehensive database that may be checked across INS offices, with milestones and comments identified in the database. Users should be able to check progress on filings by accessing the Internet, with file numbers provided to them by email notification upon receipt of cases. Receipt notices should be eliminated absent special circumstances. Approval of cases or RFEs should be communicated by email, with hard copies mailed out as a follow up.

Email and telephone access to liaison offices needs to be upgraded, to insure a reasonable response time to all initial requests for special handling (for those cases which necessitate special handling due to emergent circumstances). All changes in policy or processing requirements should be announced on the INS Web site.

There is a Need for a Community Liaison and Greater Public Access.

A task force should be created with representatives of the immigration community, including companies, trade associations, affected individuals with family- and employment-based cases and selected immigration practitioners. The task force should meet with policy makers on the service side of INS to provide feedback and generate ideas for initiatives to enhance service.

For day-to-day activity, INS headquarters should provide effective liaison with the field. The liaison offices should be staffed with knowledgeable personnel who can screen requests from users, and assist users with legitimate problem scenarios promptly and efficiently. The communications infrastructure should include a system for 24-hour response from the liaison office to assist with user requests.

Concluding Thoughts: Focus of the Changes

Critical to a successful reengineering of the INS is a goals-oriented approach. Service needs to be enhanced through a shift in attitude, stronger leadership, clear roles and responsibilities, and the elimination of backlogs.

Proposals suggesting a complete gutting of INS are unrealistic, as service, to be successful, requires personnel fully educated in an area of highly complex specialization. The current personnel at the agency have that know-how, but need organizational process, system-wide reengineering in order to provide effective service. Restructuring of the INS should accordingly be accomplished by capitalizing on existing personnel's know-how but assigning much clearer goals. A penalties and rewards system based on results and customer service is similarly mandatory.

The budgetary aspects of the reengineering process will be to assess the budgetary needs of the service arm of INS. While INS's budget has increased almost fivefold in the last decade, from \$1.5 billion in FY 1993 to \$5 billion in FY 2001, adjudication of petitions and applications is funded almost exclusively through filing fees. Funding for enhancements to technology, management support tools and, as needed, additional staff, will need to be assessed by a coordinated group of managers from field offices and headquarters. Outside consulting services should be limited, as both Booz-Allen and Price Waterhouse already have provided exhaustive reports.

Mr. Chairman, the above discussion provides an overview of the need to restructure the INS, with suggestions for implementing change. By removing the barriers to better service, we can provide for a smoother, more efficient immigration process, which will clearly benefit businesses that rely on its foreign workers, as well as family-sponsored candidates for immigration. For the agency to effectively meet its mandate in both the service and enforcement arenas, it needs to streamline its processes and maximize the effectiveness of its staff. We provide this statement to assist the Committee in its effort to achieve these critical goals.

Mr. GEKAS. We thank the lady.

Let the record now indicate that the lady from Texas, the Ranking Minority Member of the Committee, is present, Ms. Jackson Lee.

And we will turn to Mr. Gonzalez. Larry Gonzalez is currently the director of the Washington, D.C., office of the National Association of Latino Elected and Appointed Officials. He is known to many as a talking head, because of his appearances on C-Span, CNN, and other programs.

And that, these days, is a qualification that should be on every resume. [Laughter.]

And prior to joining this organization, Mr. Gonzalez served as a legislative aide in the Illinois Senate. And even before that, he worked for the Cook County commissioner and county clerk's office as a graduate then of Western Illinois University.

He is currently working toward a master's degree in legislative affairs at George Washington University.

We welcome Mr. Gonzalez, and ask that you proceed, with the 5-minute rule applying as to your written statement.

STATEMENT OF LAWRENCE GONZALEZ, WASHINGTON DIRECTOR, NATIONAL ASSOCIATION OF LATINO ELECTED AND APPOINTED OFFICIALS

Mr. GONZALEZ. Thank you, Chairman Gekas, Ranking Member Jackson Lee, and other distinguished Members of the Committee.

On behalf of the NALEAO Educational Fund, we are grateful today for the opportunity to testify and share with you our perspectives on improving service delivery through the restructuring of the Immigration and Naturalization Service.

During the last decade, the NALEAO Educational Fund has been at the forefront of promoting U.S. citizenship among Latino legal permanent residents, and we have assisted over 100,000 immigrants in becoming U.S. citizens.

Based on these experiences, our NALEAO board of directors has created four basic principles that we believe will improve INS services and should be used as a guide for any restructuring proposals.

And, Mr. Chairman, we have included—I've included the full text of these principles as part of our written testimony.

While we are particularly concerned with the changes needed in the system for financing immigration services, we strongly believe that a sound, fundamental restructuring of the INS will allow the INS to not only better enforce its borders but also to deliver quality service to its customers.

First, there must be a structure that provides for strong, centralized leadership of our nation's immigration functions. In encountering the bureaucracy of the naturalization process, we have often found it difficult to determine who specifically is responsible for formulating policy. We believe that any structure that separates the agency's function without providing for strong leadership furthers a lack of accountability and creates the risk that agency personnel will give out conflicting messages on policy matters.

Second, the service and enforcement functions must be separated but have equal priority. This separation will help ensure that personnel clearly understand their mission within the organization and that they possess the special expertise and qualifications necessary to work effectively.

It will also enhance accountability within both chains of command.

Within the structure of these functions, there also should be efficient and accessible mechanisms to address customer complaints and resolve customer problems.

At the local level in particular these mechanisms are deficient in our naturalization system and make it extremely difficult for applicants to surmount the barriers in the process.

Additionally, service and enforcement should share support services, such as some aspects of personnel training, information systems, and record-keeping. The sharing of information systems and records is particularly important for the cost-effective coordination of activities between the two functions.

Third, the head of the INS leadership must be given sufficient power, whether by virtue of reporting relationships or status within the Federal bureaucracy, to advance the agency's agenda within the executive branch.

And fourth, restructuring must be accompanied by a reform of our system of financing adjudications. The current system, which requires that adjudications be supported by user fees, is largely responsible for the INS's inability to effectively respond to the surge of naturalization and other immigration applications it has received since last decade.

While we have generally been supportive of restructuring proposals that separate service and enforcement, we believe that simply separating them will not eliminate one of the most serious problems affecting INS service delivery: the lack of adequate funding.

In this connection, we believe that Congress must, on an ongoing basis, appropriate sufficient funding for adjudications backlog reduction and infrastructure improvements so that these costs are not borne by immigration applicants.

Congress must also place any funds earmarked for these purposes into the immigration services and infrastructure improvement account it established last session. This will require the INS to provide detailed reports on how it intends to use the funding and its progress in meeting its customer service goals. These accountability measures will help guarantee that the INS spends its resources efficiently and effectively.

Ultimately, we know that giving the INS more money for its service operations is not the step—not the only step toward making the fundamental changes that are required in our nation's immigration functions. More funding alone will not solve the agency's problems if those moneys are not spent prudently and effectively.

An infusion of resources will not guarantee competence and accountability in the implementation of our immigration policies.

President Bush recognized this in making INS reform a top priority of his Administration. And in this, we've been very encouraged by the remarks and leadership of new INS Commissioner James Ziglar, who has moved his new administrative team into action toward creating a work environment at the INS more conducive to positive change.

In conclusion, Mr. Chairman and Members of the Committee, we're pleased that through this hearing you have chosen to seek public input in creating the best public policy toward improving the performance of the INS.

Immigrants who wish to fully participate in America should not be stranded in a bureaucratic maze. Immigrants who embrace U.S. citizenship are motivated by a desire to demonstrate their commitment to this country. When they gain the right to vote and participate in the political process, our democracy becomes stronger and more representative.

Increased naturalization also makes a wider group of skilled and talented workers available in our workforce for positions that are barred to noncitizens.

For thousands of law-abiding, tax-paying newcomers, U.S. citizenship is the often overlooked obstacle to social, political, and economic advancement.

However, unless we restructure our nation's immigration functions, reform our mechanisms for financing immigration adjudications, and make fundamental changes in the institutional culture of our immigration agency, we will not be able to create an equitable, accessible, and expeditious system for providing services to our nation's newcomers.

We're confident that with your Committee's continued leadership on this issue, the future of the naturalization process in this great nation will remain strong.

And thank you for allowing the opportunity to speak before this Committee today.

[The prepared statement of Mr. Gonzalez follows:]

PREPARED STATEMENT OF LAWRENCE GONZALEZ

Chairman Gekas, Ranking Member Jackson-Lee and distinguished members of the Committee: On behalf of the National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund we are grateful for the opportunity to testify and share with you our perspectives on reforming the Immigration and Naturalization Service (INS).

The NALEO Educational Fund is a non-profit, non-partisan organization that empowers Latinos to participate fully in the American political process, from citizenship to public service. We carry out this mission by developing and implementing programs that promote the integration of Latino immigrants into American society, developing future leaders among Latino youth, providing training and technical assistance to the nation's Latino elected officials, and conducting research on issues that are important to the Latino population. The NALEO Educational Fund's constituency includes the more than 5,400 Latino elected and appointed officials nationwide.

During the last decade, the NALEO Educational Fund has been at the forefront of promoting U.S. citizenship among Latino legal permanent residents and providing quality, accessible naturalization services throughout the nation. As part of its efforts, NALEO has conducted community workshops in Southern California, Chicago, New York, Houston, and other communities, which together have assisted over 85,000 immigrants in becoming U.S. citizens. Our toll-free U.S. citizenship hotline has received over a half a million calls since the mid-1980's, and has provided basic information on U.S. citizenship to people from more than 85 countries of origin. Through our naturalization assistance activities, we have gained an understanding of the problems encountered by immigrants when they make the decision to become U.S. citizens. Additionally, we have been active participants in advisory and working groups on INS management issues, including the Coopers and Lybrand Naturalization Re-engineering Management Advisory Team, the PriceWaterhouseCoopers Restructuring Advisory Board, and the Naturalization Advisory Committee of the Los Angeles INS district.

In my testimony today, I would like to offer you the NALEO Educational Fund's recommendations for restructuring the Immigration and Naturalization Service. As you will hear, we are particularly concerned with the fundamental changes that are needed in the system for financing immigration services.

Since the INS was established as the Bureau of Immigration in 1891, policymakers, researchers and immigrant advocates have frequently discussed the appropriate structure for the agency, and have advanced reform proposals. Over the last two sessions of Congress, INS reform has again surfaced as a focus of public policy debate. President Bush, in recognition of the importance of the issue to immigrants throughout our nation, early on voiced his beliefs about the need for INS reform and the need to shorten processing times on citizenship and other immigration applications.

In order to assess the various proposals put forth by policymakers, and utilizing our experiences with assisting immigrants and advocating for improvements in the

naturalization process, the non-partisan Board of Directors of the NALEO Educational Fund articulated four basic principles that we believe should guide any restructuring of the INS. Mr. Chairman, we have attached the principles as part of our recorded testimony. In brief, our four principles are:

First, there must be a structure that provides for strong centralized leadership of the nation's immigration functions to further coherent and coordinated immigration policy-making and implementation. In encountering various bureaucratic complications with the naturalization process, we have often found it difficult to determine who is specifically responsible for formulating policy, overseeing its implementation, and remedying problems that arise. A previous INS restructuring proposal provided for separating the adjudication and enforcement functions of the agency into two newly-created bureaus, without centralized leadership for the bureaus. We believe that any structure which separates the agency's functions without providing for such leadership furthers a lack of accountability, and creates the risk that agency personnel will give out conflicting messages on policy matters.

Second, immigration adjudication and enforcement functions must be separated, with both having equal priority. This separation will help ensure that personnel clearly understand their mission with the organization, and that they possess the special expertise and qualifications necessary to administer their respective responsibilities effectively. It also will enhance accountability within both chains of command. Within the structure of both functions, there also should be efficient and accessible mechanisms to address customer complaints and resolve customer problems. At the local level these mechanisms are particularly deficient in our naturalization system and make it extremely difficult for applicants to surmount the barriers in the process.

While the enforcement and service functions should be separated, the structure of the service functions and their location in the federal government should ensure that they have equal priority on our immigration policy agenda. If service functions rank lower than enforcement, they will not have the bureaucratic, political and financial resources required to make the substantial improvements in customer service that immigrant communities and other stakeholders need.

Additionally, service and enforcement functions should share support services (such as some aspects of personnel training, information systems and record-keeping). The sharing of information systems and records is particularly important for the cost-effective coordination of activities between the two functions. If the service functions incur increased costs for support services as a result of inadequate coordination, those costs may result in rising fees for immigrant applications.

Third, INS leadership must be empowered to elevate immigration policy on the federal agenda. The agency's head should be able to integrate the development and administration of immigration policy by the agency's separate functions. This leader's position in the federal government should be sufficiently powerful (whether by virtue of reporting relationships or status within the federal bureaucracy) to advance the agency's agenda within the Executive Branch.

Fourth, restructuring must be accompanied by other fundamental policy and organizational changes, including reform of our system of financing adjudications. The service functions must receive adequate resources for an equitable and accessible system of immigration adjudications. The current system of funding, which generally requires that adjudications be supported by user fees, is largely responsible for the INS' inability to effectively respond to the surge of naturalization and other immigration applications it has received since last decade. While the NALEO Educational Fund is generally supportive of restructuring proposals that separate the service and enforcement functions of the INS, we also emphatically believe that simply separating these functions will not eliminate one of the most serious problems affecting INS service delivery—the lack of adequate funding.

As you may recall, in the late 1980's, Congress mandated that, generally, immigration and naturalization adjudications must be self-supporting from fees paid by applicants. Under this mandate, the cost of all adjudications are funded from fees paid into the INS' Examinations Fee Account, and the INS is permitted to charge a fee for each service sufficient to cover its cost of providing that service. However, this system has not provided the agency the resources it needs to address dramatic increases in the demand for its services or to make needed investments in infrastructure improvements or broad programmatic changes. It has not provided the agency the flexibility it needs to shift resources when new needs arise. And it does not provide adequate accountability to ensure that the agency spends its resources efficiently and effectively.

We believe that fundamental changes must be made to repair this broken system. However, many previously introduced INS restructuring proposals failed to ade-

quately provide for immigration service financing reform. Based on those proposals, we have several concerns and recommendations.

1) We are concerned that Examinations Fee Account monies will be used for the costs incurred in creating a separate immigration Services Bureau or chain of command during the actual restructuring of the agency's functions. We believe this would result in a diminution of services and perhaps even a fee increase during the transition period. Consequently, we recommend the creation of a Transition Account, funded by appropriated monies from the federal treasury, to manage the transition from the INS during its restructuring.

2) We are concerned that a failure to prevent funds deposited into the Examinations Fee account from being used for other, non service-related purposes will result in the Service side becoming starved for needed resources and add to the massive backlogs that currently exist in the processing of visa applications, applications for adjustments of status and naturalization. We recommend that there should be explicit prohibitions against using Examinations Fee Account revenues for any purposes other than the cost of providing services to immigrants. Similarly, we propose that the statute establishing the Examinations Fee Account be amended to require that only the day-to-day routine costs of adjudications be funded from those fees.

In this connection, we believe that Congress must, on an on-going basis, appropriate sufficient funding for adjudications backlog reduction and infrastructure improvements, so that these costs are not borne by immigrant applicants. Congress must also place any funds earmarked for these purposes into the Immigration Services and Infrastructure Improvements Account it established last session. This will require the INS to provide detailed reports on how it intends to use the funding, and its progress in meeting its customer service goals. These accountability measures will help guarantee that the INS spends its resources efficiently and effectively.

3) We are concerned that the current system of funding the adjudication of asylee and refugee applications from the Examinations Fee Account substantially contributes to the high application fees that other immigrants must pay. Applicants' fees for such services as naturalization and legal permanent residency essentially subsidize the adjudication of refugee and asylee applications. When the INS raised the naturalization application fee in 1999 to \$225, it estimated that \$35 of the fee was attributable to this subsidy. While we strongly believe that for humanitarian reasons, refugees and asylees should not have to pay application fees, it is also inequitable for these costs to be borne by other immigrant applicants. We recommend that the statute providing for the funding of refugee and asylee adjudications from the Examinations Fee Account be changed to authorize the appropriation of funds of those adjudications, and that the federal government appropriate adequate funding for refugee and asylee services. Examination Fee Account monies should only be used if those appropriations are not sufficient.

4) We are concerned about the INS' inability to reprogram Examinations Fee Account and appropriated money in a timely manner. Currently, the INS must seek authorization from the House or Senate Appropriations Committees to reprogram these funds. Although technically the INS is only required to "notify" Congress of the requests, as a practical matter, the INS and Congress treat this requirement as one mandating Congressional approval. Unfortunately, Congress has delayed the approval of some of these requests for several months, which has impaired the ability of the INS to meet the changing needs of its service operations. For example, in November 1997, as part of its backlog reduction efforts, the INS requested a reprogramming of \$8.5 million to centralize all INS records in a single location. The House decided to wait and incorporate the request into the FY 1999 budget, and the funds did not become available until October 1998, nearly a year later.

Consequently, we suggest that the INS be authorized to implement any reprogramming 15 days after proper Congressional notification, if it has not received formal Congressional disapproval. This will provide the agency the flexibility to respond to funding needs that are urgent or result from unforeseen changes in the demand for immigrant services.

We are gravely concerned about the recent proposed increases in the application fees for naturalization and other immigration services—the cost of U.S. citizenship will jump from \$250 to \$310, and this increase comes only a few years after the 1999 increase from \$95 to \$225. These fee hikes, together with the inadequate delivery of INS services, underscore the inequities and inefficiencies of our fee-based system of funding of INS adjudications. The responsibility of paying for U.S. citizenship should be a partnership shared by immigrants who have played by the rules, and our federal government, which should provide appropriated monies for application processing. We believe that this proposed fee increase places an unfair burden on our nation's newcomers at a time when we should be welcoming their participation in our society and democracy. The proposed fee increase may put naturalization be-

yond the reach of thousands of immigrants who are eager to become actively involved in our nation's political and civic life.

Ultimately, we also know that providing the INS with the fiscal resources it needs for its service operations is only one step toward making the fundamental changes that are required in our nation's immigration functions. More funding will not solve the agency's problems if those monies are not spent prudently and effectively. An infusion of resources will not guarantee competence and accountability in the implementation of our immigration policies. As President Bush said recently in a speech at Ellis Island "Immigration is not a problem to be solved. It is a sign of a confident and successful nation. And people who seek to make America their home should be met in that spirit by representatives of our government. But, as many immigrants can testify, that standard has not always been observed. For those seeking entry, the process is often a prolonged ordeal full of complexities and burdens." The President concluded by saying he was committed to changing this with INS reforms that treat every immigrant with respect and fairness.

Which leads us to the recognition of the need for a change in the INS organizational culture to ensure professionalism and improved customer service. Virtually everyone recognizes that many INS personnel are viewed as incompetent and discourteous. This perception is shared by persons who must deal with both the enforcement and service sides of the agency, with complaints ranging from immigrant applicants who encounter rude examiners or office personnel, to native-born business executives who face bureaucratic obstacles trying to transact trade across the border. In this we are encouraged by the remarks and leadership of new INS Commissioner James Ziglar, who has moved his new administrative team into action toward an internal restructuring aimed at creating an environment more conducive to positive change.

In the same vein, there must be a fundamental change in the "bureaucratic culture" of the immigration agency to one which emphasizes professionalism, accountability, and customer service. This culture must be inculcated throughout the agency by its leadership, and incorporated into the agency's training of its personnel and the performance objectives it establishes for them. The agency's personnel must also reflect the diversity of our nation's immigrant community. Moreover, the INS must recognize that organizations which work closely with immigrant communities have a deep understanding of the impact of immigration policies on the lives of the agency's customers, and should become key partners with the agency in the development and implementation of policies and procedures, on both the national and local level.

Mr. Chairman, in conclusion, we believe that higher naturalization rates are in the best interests of our nation. Immigrants who embrace U.S. citizenship are motivated by a desire to demonstrate their commitment to this country. When they gain the right to vote and participate in the political process, our democracy becomes stronger and more representative. Increased naturalization also makes a wider group of skilled and talented workers available in our workforce for positions that are barred to non-citizens. For thousands of law-abiding, tax-paying newcomers, U.S. citizenship is the often overlooked obstacle to social, political and economic advancement.

Immigrants who wish to fully participate in America should not be stranded in a bureaucratic maze. However, unless we restructure our nation's immigration functions, reform our mechanisms for financing immigration adjudications, and make fundamental changes in the institutional culture of our immigration agency, we will not be able to create an equitable, accessible, and expeditious system for providing services to our nation's newcomers. Assisting newcomers with U.S. citizenship is deeply embedded in American political tradition; this country promoted U.S. citizenship in the 19th century and early decades of this century. Efforts to promote naturalization continue in the new millennium and thousands of immigrants will be seeking U.S. citizenship this decade. Without fundamental changes in our immigration bureaucracy, newcomers will be seeing the U.S. government at its worst, when they should be seeing it at its best. We are pleased that through this hearing, you are seeking public input in creating the best public policy toward INS reform. Like you, we believe that now is the best time to make changes in the way naturalization policy is being implemented. We are confident that with your continued leadership on this issue, the future of the naturalization process in this great nation will remain strong. These reforms can serve as an integral part of the renewal of our historic commitment to maintaining the vitality of our democracy.

Thank you for allowing us the opportunity to speak before this committee today.

ATTACHMENT

PRINCIPLES GUIDING RESTRUCTURING OF THE
NATION'S IMMIGRATION FUNCTIONS

ADOPTED BY THE BOARDS OF DIRECTORS OF THE NALEO EDUCATIONAL FUND AND THE
NATIONAL ASSOCIATION OF LATINO ELECTED AND APPOINTED OFFICIALS

A. *The structure of immigration functions must further coherent and coordinated immigration policy development and implementation:* All of our nation's immigration functions are charged with implementing the same body of law. A unified agency could best ensure the development of coherent immigration policy and the effective coordination of enforcement and service operations. Any structure which separates the agency's functions without providing for strong, centralized leadership furthers a lack of accountability and creates the risk that agency personnel will give out conflicting messages on policy matters.

B. *Separate enforcement and service functions, and ensure that both have equal priority:* Immigration service and enforcement functions should be implemented through separate chains of command and career tracks. The separation should extend from the field level up to immediately below the top leadership level, and the top leadership should be responsible for integrating immigration policy making and implementation. The separation of functions will help ensure that personnel clearly understand their mission with the organization, and that they possess the special expertise and qualifications necessary to administer their respective responsibilities effectively. It also will enhance accountability within both chains of command. Within the structure of both functions, there also should be efficient and accessible mechanisms to address customer complaints and resolve customer problems, particularly at the local level.

While the enforcement and service functions should be separated, the structure of the service functions and their location in the federal government should ensure that they have equal priority on our immigration policy agenda. If service functions rank lower than enforcement, they will not have the bureaucratic, political and financial resources required to make the substantial improvements in customer service that immigrant communities and other stakeholders need. Therefore, we do not support any structure that would diminish the priority of the service functions in the immigration agency, or would place them lower than enforcement.

Additionally, service and enforcement functions should share support services (such as some aspects of personnel training, information systems and record-keeping). The sharing of information systems and records is particularly important for the cost-effective coordination of activities between the two functions. If the service functions incur increased costs for support services as a result of inadequate coordination, those costs may result in rising fees for immigrant applications. Principles Guiding Restructuring of the Nation's Immigration Functions - page 2

C. *The immigration agency's leadership must be empowered to elevate immigration policy on the federal agenda:* The agency's head should be able to integrate the development and administration of immigration policy by the agency's separate functions. This leader's position in the federal government should be sufficiently powerful (whether by virtue of reporting relationships or status within the federal bureaucracy) to advance the agency's agenda within the Executive Branch.

D. *Restructuring is only one step toward fundamental reform of our nation's immigration system:* While restructuring in accordance with the principles set forth above would address some of the problems of our immigration system, it must be accompanied by other fundamental policy and organizational changes. These include:

- The service functions must receive adequate resources for an equitable, accessible and effective system of immigration adjudications. The funding for those adjudications should be modified to eliminate the reliance on fee revenue and ensure that appropriated funds are used for expenses which are not related to the routine aspects of adjudications, such as one-time extraordinary expenses, infrastructure improvements, and comprehensive program changes. Similarly, the Examinations Fee Account should no longer solely bear the cost of refugee and asylee adjudications, and appropriated monies should provide some portion of the support for these operations.

Moreover, the system of requiring fee revenue to fully support the cost of adjudicating naturalization applications was established so that immigrants who receive a government "benefit" would bear the costs of application processing. However, this nation should recognize that greater naturalization not only benefits new U.S. citizens, but also enriches our democracy by making it more representative and vital. Consequently, encouraging naturalization is

in the best interests of this nation, and high application fees should not place U.S. citizenship beyond the reach of our newcomers. Thus, there should be a partnership between immigrants and our government to pay for U.S. citizenship, and adequate funding for naturalization adjudications should be provided through a combination of appropriated monies and fee revenue.

- There must be a fundamental change in the “bureaucratic culture” of the immigration agency to one which emphasizes professionalism, accountability, and customer service. This culture must be inculcated throughout the agency by its leadership, and incorporated into the agency’s training of its personnel and the performance objectives it establishes for them. The agency’s personnel must also reflect the diversity of our nation’s immigrant community.
- The immigration agency must recognize that organizations which work closely with immigrant communities have a deep understanding of the impact of immigration policies on the lives of the agency’s customers, and should become key partners with the agency in the development and implementation of policies and procedures, on both the national and local level.

Mr. GEKAS. We thank the gentleman.

It is the intent of the Chair to allot the Chair himself 5 minutes in the first round of questioning, but before we do that, we recognize the lady from Texas for an opening statement, if she wishes to deliver it now. Or she has the option of awaiting the completion of the Chair’s questioning to do both her opening statement and her questions.

Ms. JACKSON LEE. Mr. Chairman, I will do that, thank you very much. I’ll wait for your questions.

Mr. GEKAS. All right. We’ll do the first round by allotting the Chair 5 minutes for a round of questioning.

Mr. Gonzalez, I take it from your statement that you look forward to the planned reorganization—

Mr. GONZALEZ. Absolutely.

Mr. GEKAS [continuing]. So long as the naturalization process gets it proper allotment of time and resources, et cetera.

And then you’re ambivalent about it; you say that if it doesn’t do that, then it’s not worth bifurcating at all or reemphasizing the structure.

I’m here to tell you that we want you to give a critique when the time comes on both the offer of restructuring that Mr. Ziglar intends to make and the legislative proposal that we will be proposing alongside it. So when the time comes, we will want you to critique that.

Mr. GONZALEZ. I look forward to that opportunity.

Mr. GEKAS. Mr. Stana, one of the things that you mentioned was that the current situation in the INS doesn’t have enough of its employees trained enough in perceiving fraudulent situations or the appearance of fraud in a certain set of circumstances. Where in the INS would the lack of training be ascribed?

Mr. STANA. Training would be a function of the human resources branch in the INS. But where the training really comes in is interpreting the set of laws that are out there to guide them when considering adjudications—whose—who can get certain a visa and who can’t.

The problem is, is without a good set of guidance and training in that guidance, adjudicators all too often are making their own judgements. And to some degree, they need to make their own judgements. They’re not making judgements with the benefit of guidance.

So I think Ms. Stern mentioned that there are inconsistent adjudicative decisions being made, and this is where the training needs to come into play.

Mr. GEKAS. You mentioned one example of an application first being denied and then, with a different adjudicator, it was approved.

Mr. STANA. That could also be a function of the information that's available to the adjudicator. Many of these information systems are local, and so one adjudicator may have information at one location that another one, another adjudicator at a different location, may not.

Mr. GEKAS. Well, that ain't good.

Mr. STANA. That's not good.

Mr. GEKAS. Thank you for the correction on the semantics. [Laughter.]

Ms. Stern, can you tell us that there have been times when you had a bona fide application that you submitted for your clients which was denied but then later in some way corrected so that it was finally approved?

Ms. STERN. Yes, Mr. Chairman. The context in which it comes up for us most often is that we will file—let's assume that we file three cases that are very similar over the course of a few months for the same company, for computer systems analysts, all of whom are master's degree graduates from a U.S. university and have a particular skill set, because that's what this company specializes in. The eligibility, quite clearly, is—the corporate information has been met, so all three, presumably, should be approved, unless there is something in the individual's background. Assume that there is not; that's what we've found.

One of the three will be approved without a problem. Two of the three will get an inquiry. One will get an inquiry from the service center that will say: Prove to us that a computer systems analyst is in fact a specialty occupation, that that's—

Mr. GEKAS. I understand. But if one of them was denied, what will your next step be? To reapply, to ask for another adjudication?

Ms. STERN. No, we would—

Mr. GEKAS. Forum shopping—

Ms. STERN [continuing]. Ask for. No, we couldn't—no, because there's a problem with credibility over time if you do that.

I think that it could be done, and I think that it is done. We would not do it. We would do it as a motion to reopen, and we would probably solicit help from headquarters, so that headquarters advised them of inconsistency and why—

Mr. GEKAS. So that any—

Ms. STERN [continuing]. There was some error by an adjudicator.

Mr. GEKAS. In any restructuring, you would recommend, would you not, that denial of an application would not result in going to some other office or some other individual for a second adjudication?

Ms. STERN. That's correct. That's why the database integration is critical.

Mr. GEKAS. Mr. Fine, you mentioned, almost in passing, that you found missing property, that the INS couldn't account for certain property. May I ask if any of that property included files, like the

dreaded FBI files that were found or not accounted for in the White House, et cetera? [Laughter.]

Mr. FINE. No, the—

Mr. GEKAS. Is it files?

Mr. FINE. The review we did was of physical property, such as firearms, such as computer equipment, such as other property that INS had. And we found, through statistical sampling, that they did not have an asset management system that kept track of their property, of their firearms and computers.

We do see a problem with files, though, having a problem getting the file to the adjudicator and to the right people who need it. Alien files are very difficult to locate within the INS and get it to the right person at the right time.

We did a review of the Citizenship USA, which found that many of the adjudicators couldn't get the file in time to use it and, as a result, did not have the pertinent information they needed to make a decision on the application.

Mr. GEKAS. Would that be more a problem of the mishandling of the physical files or the lack of a computerized system that could better handle the transferring of the files, et cetera?

Mr. FINE. I think it's the lack of a computerized system to keep track of the files, to know where they are, and to be able to get it to the right place in a timely fashion before the adjudication is decided.

Mr. GEKAS. This missing filing syndrome is rampant through the entire executive branch and within the Congress, I might add. So we are—I, at least, am very worried about that.

And my 5 minutes have expired. We now yield to the lady from Texas for both an opening statement and a round of questioning.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. And I thank you for your kindness, but, as well, the importance of holding such a hearing.

I want to say to the witnesses, not out of lack of interest in this hearing but because of a fallen firefighter in my district, I was delayed on the floor of the House in paying tribute to him. And I thank you very much for your indulgence.

Likewise, I am in between two hearings, so I will try to summarize my opening statement and combine questions as well.

I would hope, in the spirit of former Senator Spencer Abraham and Sheila Jackson Lee, that the Immigration and Naturalization Service will commend to its study H.R. 1562, which I believe captures the essence of where we should go with respect to restructuring the INS.

It is well known that we can account for a number of procedural problems, processing standards vary dramatically from case to case.

Ms. Stern, I have worked with a number of businesses in my community not trying to avoid the immigration policies and laws, but only because they cannot get a response.

And I have always said this country is a country of immigrations, proudly so, and a country of laws.

Lack of information forces most individuals who have the ability to do so to seek counsel. The INS provides little and poor training for its employees at all levels, adjudicators, inspectors, information

officers. Legislative provisions are routinely not implemented for 6 months to a year or longer, as we heard just a week ago, tragically, as it relates to incidents that occurred on September 11th.

There were systems that were dictated to the INS that had not yet been put in place, and we believe there were funds to do so.

This is not an attempt to point the finger. It is an attempt to never go back and to look forward.

Service center phone lines, particularly used by customers who seek information about the status of their cases, are busy constantly. Long lines wrap around buildings in places like Houston, Texas, and Chicago. And 20-year waits are for people who are trying to access legalization. This is not myth; these are facts.

But I do believe that we do a disservice to the INS to totally dismember it. And I would like to pose a question—I think I'm well aware of Mr. Fine's fine work and Mr. Stana's work on this. And I simply commend a message back to Commissioner Ziglar, that he works with Congress on the legislative initiatives that have gotten in the past the support of the former Chairman of the Immigration Committee in the Senate and, as well, the President, before someone apprised him that he was not speaking the partisan line, supported the concept of two bureaus with a structure reporting to associate attorney general. Certainly, that does not deny the role and responsibility of the commissioner.

Let me say, and ask the question pointedly to Mr. Gonzalez, and I want to applaud you for your work. I find the work that you have done is the reason why you are so sought after to provide information to the public. And that may cause you to be on CNN and C-Span, so I take it that work is what generates the ability of you to be on.

But what is your understanding, or what is the focus that you've mentioned, two bureaus, with equal standing, because my concern is that one pull from the other. We can't make the enforcement stronger than the services, because then we eliminate people's ability to access legalization.

Ms. Stern, would you comment? You made a point in your testimony about two bureaus. Can you work with a concept that has them with equal standing and equal resources and being governed by an important link to the Department of Justice, would be associate attorney general?

Mr. Gonzalez?

Mr. GONZALEZ. Yeah, I agree with those comments. I think we're absolutely in support of an agency head that is elevated, that has a certain amount of authority, and that they have, both the service and enforcement side, have equal priority, because our fear is that the service side would be starved.

And in a certain sense, that's happening now, where money that is being paid into the examinations fee account by immigrant applicants is often being diverted because of congressional mandates for other purposes.

For instance, right now there is a conference Committee report awaiting discussion, where nearly \$200 million is being diverted out of that examinations fee account to pay for the executive office of immigration review and for other types of funding.

In the past, we have had situations where money has been diverted from immigration applicant fees to go toward Border Patrol. So we've had those types of situations in the past. And so that is our fear, in terms of the service side being starved out.

Ms. JACKSON LEE. Thank you.

Ms. Stern?

Ms. STERN. We would be fine with working either two separate bureaus, provided that they do have the ability to share information. We do think that the ability to have integrated databases is critical in order to accomplish prompt decisions, to get to information quickly enough to stop bad decisions, and to avoid the hard-file transfers that we think really bottleneck the system.

Ms. JACKSON LEE. Let me conclude by saying, you have captured it excellently, because I think that's what Mr. Gonzalez is speaking about, that's what I am speaking about, two distinct but equal entities, where one is not elevated above the other, one does not draw upon resources from the other, and, therefore, diminish the other, because I would imagine that you would prefer dealing with the Bureau of Services; you would not like to have your clients unfortunately in the enforcement aspect.

The way to do that is to create a vehicle for your clients to access legalization and others fairly.

And sharing information, we've already learned, these past weeks have told us, if we don't learn to share information, we are doing a disservice to what we are attempting to do, was to create legal ways accessing immigration in this country.

So, again, I would commend to the INS the structure of 1562, because I believe that when you put two distinct, competing entities together, and suggest, "Go for it guys,"— [Laughter.]

Ms. JACKSON LEE [continuing]. Enforcement and services, you are really, if you will, collapsing what we are trying to do.

And I will be waiting on Commissioner Ziglar, but I would commend that Congress can move on this bill quite fast, because there's a lot of support for it, that would give elevation to both of the issues that we are talking about.

With that, Mr. Chairman, I ask unanimous consent to put my entire statement into the record. And thank you for the indulgence.

And I depart because I have a cyberterrorism hearing going on right now.

Thank you very much.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Thank-you Mr. Chairman. The topic of performance with the Immigration and Naturalization Service is a very important subject. Thousands of individuals can attest to the exacerbation of unclear lines of accountability and poor intra-agency communications and coordination. One result has been for the Agency to allow lengthy backlogs to develop for processing matters such as citizenship applications, visas, and a host of other immigration benefits.

Mr. Chairman I have a bill: H.R. 1562, the Immigration Restructuring and Accountability Act of 2001. The intent of restructuring the INS is to create a centralized leadership within the Department of Justice through the Associate Attorney General as well as have more clarity of mission and greater accountability through a separate Bureau of Services and Enforcement. Such a structure will lead to more efficient adjudications and more consistent, effective and professional enforcement.

That now leads us to the subject of this hearing.

There are accounts of delayed cases that cause two and three fingerprint clearances, lost files, and mistaken information on the computer that causes INS to believe that a person is naturalized when they are not. Others account extreme delays in inputting fingerprint clearances in the computer so that applicants can be interviewed and delays in Service Centers sending files to District Offices. Unbelievable to many is the fact that INS sends receipts to inform applicants of the time frame which their application should be adjudicated; however, these time frames are frequently, if not almost always, wrong.

Furthermore, the Agency lacks good customer service. Many INS offices around the country are understaffed and the staff is inefficient and mismanaged. In addition, there is an obvious lack of training that most employees receive.

There is no end to the frustration felt by customers. Since I have been the Ranking Member of this subcommittee, Member after Member have approached me to weigh in on what should be done about the INS.

The following are specific problems that customers face. This is NOT an exhaustive list:

- 1) Processing standards vary dramatically from case to case and from Service Center to Service Center. Service Centers are treated as independent units, even though they do the same thing in most cases. This accounts for great disparity across the United States.
- 2) Lack of information pretty much forces all employees to retain legal counsel that sound and timely information from INS would prevent or minimize. Information is so scarce and so poor that employers as well as aliens are captive to attorneys and cannot even ask responsible questions. In fact, they are easy prey for a large universe of poor or irresponsible practitioners.
- 3) INS provides little and poor training for its employees at all levels. Adjudicators, inspectors, information officers, and special agents, for example, have infrequent, outdated, insufficient, or poor quality training. In fact, in many if not most cases, training does not even exist (the training that is available should be examined!)
- 4) Legislative provisions are routinely not implemented for 6 months to a year or longer. All this despite the fact that Congress made the provisions effective upon enactment.
- 5) So many parts of INS operate independently rather than as part of the same organism. Inspections, service center operations, adjudications, and enforcement are each islands unto themselves, even though "customers" experience them as a single entity and do not understand the discontinuity.
- 6) Service Center phone lines, particularly used by customers who seek information about the status of their cases, are busy constantly. Automated numbers are busy around the clock. Customers complain constantly of trying for hours, days, and weeks at a time without reaching the information they need. The demand for and supply of this information is grossly disparate.

CONCLUSION

There is no doubt that INS needs to be restructured. The INS must dedicate itself to changing the manner in which it addresses the needs of people who require, deserve and pay for—in the form of fees and taxes—the services that it is charged with fulfilling.

What remains in question is when will we restructure INS and how will we restructure the agency? The first question has a simple response. Restructuring is long overdue. We need to commence restructuring immediately.

Mr. GEKAS. Without objection, the statement of the lady will be included in the record.

We acknowledge, for the record, the presence of the lady from California, Ms. Lofgren.

And now we turn to the gentleman from Arizona, Mr. Flake, for a round of questioning.

Mr. FLAKE. Thank you.

Mr. Stana, we've had some—a previous hearing last week on some of the problems that Mr. Fine talked about that we have. We never got some good answers on some of the issues that we raised.

One issue that keeps coming up is interior enforcement; visa overstays, for example. Can you give us a good figure on how many visa overstays, an estimate, that there are right now?

Mr. STANA. I can give you the estimates that I know the INS has prepared. Let me do that first.

There are anywhere from between 6 and 11 million illegal aliens in the United States. INS estimates that anywhere from 40 to 50 percent of those are the result of visa overstays.

Now, the other side of that answer is, INS does not have a reliable way to estimate visa overstays. We don't know the exact figure.

Mr. FLAKE. If the INS were to implement the programs that have been authorized—the IDENT and others—wouldn't we have a better idea there?

Mr. STANA. You'd have a better idea. There are some complex considerations in implementing the exit-entry visa programs, or the entry-exit checks, but you would have a better figure.

Mr. FLAKE. On that IDENT system, Mr. Fine, last week we talked about what kind of technology was being used and whether or not that's outdated, whether something else could be used. I understand that the FBI has a fingerprinting system that is used. It can actually pull up names by fingerprint, rather than fingerprint by names.

Why—and that would seem to be easier to track people that way, because unless you enter the name perfectly, I understand, in the IDENT system, it's not going to pull anybody up. But it would be far better if you can have something that reads by fingerprints or indexes or look them up by fingerprint.

Why is the INS going forward with the IDENT system if the FBI has something that's superior? And if you're going to want to link with the FBI anyway, why aren't we doing that?

Mr. FINE. I think we do need to link with the FBI. I think the problem is the INS has gone forward with the IDENT system and use it as an identification procedure along the borders and elsewhere. I think it needs to be integrated with the FBI system so that rather than create a whole new system for the INS—the INS has moved very far along with the IDENT system, and rather than start at ground zero, I think the best solution would be to ensure that the information that the FBI has is transferred to the INS system in a timely fashion, so that they can use it along the border, in adjudications and inspections all throughout their system.

Mr. FLAKE. Can the two be melded together effectively?

Mr. FINE. I think it can be. It will take money; it will take dedication. But the INS and the FBI have been moving toward that; I think they've been moving too slowly.

I don't think there are technological problems to it. I think there are financial issues, and I think there are issues of dedication to this task. I think that's the problem, rather than any technological impediment to linking them.

Mr. GEKAS. Would the gentleman yield—

Mr. FLAKE. Yes.

Mr. GEKAS [continuing]. For a follow-up question on his excellent line of questioning?

Mr. Stana gave those raw figures of the illegal aliens. How many of the overstays that you discussed had to do with student visa overstays? Is there any figure on that?

Mr. STANA. No. INS's data sets would not permit a reliable estimate of that. But there would be a good number of them.

Mr. GEKAS. Thank you.

Mr. FLAKE. To follow up—

Mr. GEKAS. I'll make it up to the gentleman. [Laughter.]

Mr. FLAKE. No worries.

To follow up on that, we have actually introduced—myself and Mike Castle and some others, and Senator Bond in the Senate—a visa security bill, which would actually force colleges, universities, flight schools, everybody, to inform the INS if students fail to show up.

Do you think that that would help?

Mr. STANA. I definitely think that that would help. There had been some resistance to that idea before September 11th. It seems that, in the present circumstances, those in the economic community are warming to that idea.

Mr. FLAKE. Do you believe that it ought to extend to flight schools and other vocational schools and whatnot as well?

Mr. STANA. Well, as part of a comprehensive plan of INS's to get a better handle on who's in the country and visa status, that certainly would seem to be a reasonable expansion.

Mr. FLAKE. Do you share Mr. Fine's view that the IDENT system can be melded with the FBI's program? You were nodding your head a little earlier when we were talking.

Mr. STANA. Yeah, I know that the two systems are not entirely compatible right now. Now, can they be made to be compatible? I believe so.

I believe the FBI system, at this point, is a little more sophisticated. It takes more digits, more finger digits, prints, and, therefore, could possibly give a more precise identifier.

Mr. FLAKE. In the hearing last week, the testimony from Mr. Ziglar—I apologize if I read him wrong—but I didn't sense a great deal of enthusiasm for reform there, a little too much complacency, I felt, was exhibited there, with what's going on.

What has stopped the INS, Mr. Stana, from reforming itself over the years? Is it simple inertia? Are there other pressures that come to bear? What has been the problem, in your view?

Mr. STANA. INS, over the past decade or so, has had a vast infusion of resources, people, money. And they've also had an infusion of aliens, legal and illegal, that they needed to deal with. They're straddled with outdated management systems, information systems, and a culture that's just not a culture for the 21st century.

So what's needed to overcome that is strong leadership, which I think many here have mentioned. You need to have clear goals, articulate clear policies, clear vision. And what's most important that's been lacking—and I think in last Thursday's hearing, I think, Mr. Chairman, you mentioned this, and others did, too—is follow through. And that's key.

There are so many initiatives that are on the book, or so many of our recommendations that the INS has said that they agree with

and they're going to implement that seem to languish. And I think follow through is a key element here that we can't overlook.

Mr. FLAKE. Thank you.

And thank you, Mr. Chairman.

Mr. GEKAS. We thank the gentleman.

We turn to the gentleman from California, Mr. Issa, for a period of questioning.

Mr. ISSA. Thank you, Mr. Chairman.

Perhaps my mini opening statement can be included in here.

Just to follow up on Ms. Lee's statement of 1562 and her work with Secretary Abraham—and I'd like say for the record that I was in and out of Detroit during that time, and I'm very aware, for all the Members on this Committee, that Secretary, previously Senator, Abraham's thank you for all that hard work was millions of dollars spent by anti-immigration groups to trash him and put his picture up with Osama bin Laden.

And in light of September 11th, I hope those groups try to find a rock to hide under for that kind of comparison. And I hope they don't find it.

But, going into the brighter and cheerier part of this, I would like to ask each of you just for a straight yes or no. Based on your statements, would you say that the INS organization as is presently comprised is bankrupt, from a Government standpoint?

Seeing only staring faces, I'll take that as a yes from all.

So if an organization is bankrupt, by definition, there has to be a reorganization. I know we have had several. Is there anyone here that feels that it is inappropriate to split it into two or more pieces, in order to try to make it reorganized more effectively? Anyone who opposes that?

Mr. STANA. Well, let me put it this way. I think you can make a case for that. But there are some cautions that we need to—

Mr. ISSA. I'm making the case for it.

Mr. STANA. Okay.

Mr. ISSA. What I want to say is, is there a valid reason that you can say succinctly that one should not break it into two groups, forgetting about databases, because we understand, those databases have to be shared with lots of groups now, not just those two halves of a former organization? Is there a valid reason that you can succinctly state that you should not break the two conflicted goals apart?

I'll take that as a no. Thank you.

Mr. FINE. I would like to say one thing in that regard. We have—we do not take a position on whether it should be or shouldn't be broken into two. But the thing that has to be dealt with when breaking an agency into two is the coordination issues across agencies.

We've seen problems even within the INS of coordination, of sharing information. Would the breaking it in two exacerbate that problem? And would there be an ability to coordinate their activities adequately, if it was in two agencies?

I think that's an issue that needs to be addressed; I'm not saying that it couldn't happen.

Mr. ISSA. Well, let me just—

Mr. GEKAS. Would the gentleman yield for one question?

Mr. ISSA. Yes. Go ahead, Mr. Chairman.

Mr. GEKAS. Have you seen, Mr. Fine or Mr. Stana, have you seen the proposal that Commissioner Ziglar discussed the last time?

Mr. FINE. No.

Mr. STANA. I have not seen it.

Mr. GEKAS. Could I ask you to request a copy of the—at least a skeleton proposal, so that we can then question you as well as him on that proposal?

Mr. FINE. Certainly.

Mr. GEKAS. Would you do that for us?

Mr. STANA. Sure. Will do.

If I may just amplify something that Mr. Fine said? In the past decade, INS has moved the boxes on the organizational chart before, and the problems that we've reported on persist. So I know that you have an interest in splitting the organization and, in effect, moving boxes again, and you could make a case for doing that. You could streamline things and you could get better management processes.

But if we don't pay attention at the same time to the basic management building blocks, I think we may be here 10 years from now again, talking about another reorganization.

Mr. ISSA. And I appreciate that.

Just for the record, I have a border district. I have both of the secondary checkpoints that exist in California in my district. I have 250 people in the secondary checkpoints. They bring in seven people a day, quote, trying to get through the secondary checkpoint. We have over 2,500 people in the San Diego zone, but we only have 100 people tasked by the INS at their logistical decision process to deal with the over 3 million-plus that we've already recognized have gotten through and are sitting there, occupying jobs that legally and lawfully and rightfully should go to legal immigrants rather than illegal.

So I would say there's a structure that goes beyond the boxes.

And I'm not suggesting moving the boxes. I'm suggesting, as a matter of fact, that if you were to break the Border Patrol and INS into two, the first thing that the enforcement arm, the Border Patrol, would ask for is help. They would no longer refuse to come to prisons and jails when undocumented workers are getting out, having committed crimes, so they could then be released back into society and continue to operate. They would no longer refuse to share information with other agencies. They would no longer insist that this body give them laws that protect them so that, in fact, we cannot use other law enforcement agencies to detain people that, in fact, are believed, strongly believed, reasonably believed, to be undocumented.

We have a matrix that is designed to have this inefficient, bankrupt organization continue to operate.

I happen to be very pro-immigration. I, with Secretary Abraham, am one of those people that believes that the legal immigrant gets screwed by the failure of this organization.

And so—and I would have liked to have asked more questions of others, but I see my time has expired.

I think there is no question—and I will look forward to any follow-up you all do—that we have to break this conflicted organiza-

tion, because we cannot do the right thing for the legal immigrant if we continue to have an organization that has been so bad, so ineffective at stopping the illegal.

And I do not blame the Border Patrol element of this at all. I have seen the limitations they have, and I have seen that the management of the INS is, in fact, superior to the Border Patrol and, thus, prevents it.

Thank you, Mr. Chairman.

Mr. GEKAS. We thank the gentleman.

For the time remaining, Ms. Lofgren is recognized.

Ms. LOFGREN. Thank you, Mr. Chairman.

I know we have a vote on, so I'll get right to the point.

I first interfaced with the Immigration Service in 1971. It was an agency that was in trouble then, and it's been in decline ever since.

The reports that you've delivered are not news to us. We know that the agency is dysfunctional. We know that it lacks technology and management. And the sad thing is that it never seems to get better.

I think if you did a survey of the House and Senate, you would find that most Members believe this is the worst performing agency in the Federal Government. The Bureau of Indian Affairs might come in a close second. [Laughter.]

I understand that the new commissioner wants to whip the agency into shape. I wish him Godspeed. But I'm mindful that he has only the management resources within the agency that currently exist, and those management resources have been inadequate to achieve what we need in the area way of technology.

And I am convinced that if we do not utilize modern technology in the agency, we'll never get ahead of the game.

The INS uses paper. The INS is creating multiple databases that cannot communicate with each other. It's stunning.

And I understand that the INS is now reevaluating its technology needs, but it's doing so in-house, and that scares the heck out of me.

I'd like to ask unanimous consent to make this letter a part of the record, Mr. Chairman.

I recently wrote a note to Congressman Frank Wolf, the Chairman of our Appropriations Subcommittee, making four suggestions:

One we should allow the Immigration Service to contract for management services, recognizing that they lack the capacity to strategize on their technology needs and that they might be able to actually contract with a firm. I don't know which firm, but there are consulting firms that would actually tell the INS what they need to do before they do it.

Second, we should relax procurement rules on technology, so that the INS can actually procure equipment in this century.

Third, we should allow volunteers from the technology sector who do not have a conflict of interest, who are not bidders, to assist the Commissioner and advise him on technology issues.

And finally, we should streamline procedures, so that the commissioner can remove and replace management employees who are not able to perform to the standards that the nation's taxpayers deserve.

I'm wondering if either Mr. Fine or Mr. Stana, who have done these reports, think that these four suggestions might be of help to the new commissioner.

Mr. FINE. I think they can be useful. They sound reasonable.

I do believe that the INS does need to look outside to others for some help with these technology issues. I know the FBI, for example, has recently had technology problems and they have brought in somebody from the outside, a 25-year veteran of IBM, to look at its technology. It's improved the technology of the FBI.

I think that's an important thing to do, to look outside for the best technology and the best help in dealing with these critical issues.

Mr. STANA. I think it would be important also, in addition to the information technology side, to get into the management services, to get some help with the kinds of immigration processes that Mr. Issa was talking about, and Ms. Stern and Mr. Gonzalez. It just seems that some of the legal aliens are just not getting a fair shake out of the system.

Ms. LOFGREN. Absolutely. You don't need to hear horror stories from us. But the approach in the past has been, to move resources from an area that is not problematic to one that is. As September 11 showed us, not only is it unfair, it's dangerous, and we can't put up with it anymore.

I thank the Chairman for allowing me to speak. I'll make this letter part of the record.

Mr. GEKAS. Without objection, it will become a part of the record.

Mr. GEKAS. I was going to take 20 minutes to thank the group for its presentations today. [Laughter.]

Mr. GEKAS. But because time is pressing, I do express the Chair's appreciation, and that of the Committee, for your services and for your future availability to respond to our inquiries.

Thank you very much.

This hearing is closed.

[Whereupon, at 11:16 a.m., the Subcommittee was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

ZOE LOFGREN
18th DISTRICT, CALIFORNIA

COMMITTEES
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SUBCOMMITTEE ON IMMIGRATION AND CLAIMS
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October 5, 2001

The Honorable Frank Wolf
Chairman
Subcommittee on Commerce, Justice, State and the Judiciary
H-309, The Capitol
Washington, DC 20515

RE: 10/5/01 Conversation Regarding INS Reform

Dear Chairman Wolf:

As I mentioned to you on Friday, I have been dealing with the Immigration and Naturalization Service since 1971 and now serve as a Member of the Judiciary's Immigration and Claims Subcommittee.

I have long been concerned about the performance of the Immigration and Naturalization Service (INS). In 1971 the agency was inefficient. Since then, performance has deteriorated to the point where most Members of Congress would judge it to be the poorest performer among all Federal agencies. I have observed over the past 5 years that when Congress or the Executive insists that performance in one area of the INS be improved, the solution offered by the INS to address the service issues in that area is simply to divert resources and diminish service in another. In the post-September 11th era, I know that we are in agreement that the integrity of one area of operations should not depend on a depletion of resources from another. Not only is this ultimately a strategy that leaves all areas of service dysfunctional, it is too dangerous to be permitted.

Now it is even more important that our immigration agency have all available resources to effectively adjudicate services and protect the integrity of national security at the borders. While financial resources are important, I believe that the INS bureaucracy will never reform unless it has the same flexibility as the private sector in managing its employees and procuring necessary technology. The significance of this authority is more important in some sectors of the government than others.

It is apparent that unless the INS can effectively develop and implement a strategy for technology in its operations, it will never be able to succeed in its missions. However, despite both direction and funding from Congress there has been a failure to develop and implement a technology strategy. Having reviewed two years ago what purported to be the technology plan, I have serious doubts that the agency possesses the management capability to implement such a plan.

As I mentioned to you Friday, it seems to me that Congress could offer the new Commissioner additional options so that he may succeed in turning this agency around. The following suggestions could be implemented immediately in your mark-up and would allow the Commissioner flexibility in proceeding on the challenging and essential tasks that face him.

1. Allow the INS to contract management responsibilities in the technology area to a private sector firm. As I believe I mentioned to you on Friday, I successfully utilized this approach when I chaired an authority that built highways with local funds in Santa Clara County. The State CALTRANS office was bureaucratic and bulky. We hired Bechtel to manage our agency, with oversight and policy direction from local elected officials and a small staff. It worked well, and every project reported in ahead of schedule and under budget. Given the many audits of the INS, and the inability of the agency to evaluate its own technology needs, private sector management may prove to be the only answer.
2. Relax procurement rules so that technology can be efficiently acquired and deployed. While rules prohibiting corruption and self-dealing must be maintained, much of the bureaucracy relative to procurement does not serve that goal and tends to slow acquisition down considerably. We need to ensure that the INS can acquire technology quickly if the nation is to be protected.
3. Allow volunteers to serve as advisors on technology strategy for the agency. As I believe I mentioned to you, there are many individuals and firms in Silicon Valley who would be more than willing to volunteer their time and knowledge to help our country on this initiative. Obviously, volunteers should not be bidders or benefit financially from their advice.
4. Finally, we should make sure that streamlined procedures are in place so that the Commissioner can remove and replace employees of the agency quickly as he works to improve management at the agency.

As we have discussed we agree that the INS must receive the financial and management resources necessary to make the changes necessary for a new, effective, streamlined agency. I am eager to do whatever I can to assist in this important effort and I appreciate your consideration of my recommendations.

Sincerely,



Zoe Lofgren
Member of Congress

